FEDERAL ELECTION COMMISSION

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

THIS IS THE END OF MUR # 1641

Date Filmed 8/13/85 Camera No. --- 2

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 22, 1985

Ralph M. Hettinga, Jr.
645 Compress Road
Las Cruces, New Mexico 88001

RE: MUR 1641

Dear Mr. Hettinga:

This is in reference to the complaint you filed on March 6, 1984, against the Mondale for President Committee, Inc. ("MPC"), Michael S. Berman, as treasurer, Walter F. Mondale, the AFL-CIO, the National Education Association, NEA-New Hampshire, the Alabama Education Association, the Iowa State Education Association, the Iowa Federation of Labor, the New Hampshire State Labor Council, and the Alabama Labor Council.

After conducting an investigation the Commission concluded on May 21, 1985, that there was no probable cause to believe NEA-New Hampshire and the New Hampshire State Labor Council violated 2 U.S.C. § 441b(a), and that there was probable cause to believe the Iowa State Education Association violated 2 U.S.C. § 441b(a) and took no further action. On July 9, 1985, the Commission further determined: that there was no reason to believe the AFL-CIO, National Education Association, the Iowa Federation of Labor, and the Alabama Labor Council violated 2 U.S.C. § 441b(a); and, to close the file with respect to the Alabama Education Association after taking no action on September 18, 1984.

In addition to the above, the Commission concluded on March 26, 1985, that there was no probable cause to believe the: Brevard County Central Labor Council; United Carpenters and Joiners of America, Local 7; Clinton Labor Congress; Black Hawk Labor Temple Corporation; Laborers International Union of North America; IBEW, Local 405; and UAW, Local 442 violated 2 U.S.C. § 441b(a). The Commission further concluded on July 9, 1985, that there was no probable cause to believe the following labor organizations violated 2 U.S.C. § 441b(a):

1. Bakery, Confectionary and Tobacco Workers International Union, Local 275
2. American Federation of Teachers
3. American Federation of Teachers, Local 2309 (Oklahoma City Federation of Teachers)

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4. Massachusetts Federation of Teachers
5. CWA, Local 6010
6. Michigan Education Association-NEA, Local 1 (MEA-NEA)
7. Massachusetts Teachers Association
8. United Union of Roofers, Waterproofers and Allied Workers, Local 70
9. IBEW, Local 252
10. IBEW, Local 2320
11. United Brotherhood of Carpenters and Joiners of America, Local 678
12. United Brotherhood of Carpenters and Joiners of America, Local 512
13. United Brotherhood of Carpenters and Joiners of America, Local 766
14. Keokuk Labor Fraternal Council
15. UFCW, Local 6P
16. UFCW, Local 47P
17. UFCW, Local 1439
18. UFCW, Local 71
19. UFCW, Locl 1169
20. UFCW, Local 31P
21. UFCW, Local 1161
22. UFCW
23. IBEW, Local 292
24. Hotel, Hospital, Restaurant and Tavern Employees Union, Local 21
25. United Steelworkers of America, Local 3539
26. United Steelworkers of America, Local 2944
27. United Paperworkers International Union, Local 61
28. Muskegon County UAW CAP Council
29. Greater Flint AFL-CIO
30. Ohio AFL-CIO
31. AFSCME District Council 37, Local 372
32. United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the U.S. and Canada, Local 190
33. Minneapolis Building and Construction Trades Council
34. Trowel Trades, Local 14 International Union of Bricklayers and Allied Craftsman
35. Hillsborough County Central Labor Council
36. Wisconsin AFL-CIO
37. United Paperworkers International Union, Local 75
38. CWA, Local 4305
39. CWA, Local 1365
40. Burlington County Education Association
41. Clark County Classroom Teachers Association
42. Muskogee and Vicinity Central Labor Council

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Finally, on July 9, 1985, the Commission determined that there was probable cause to believe the Quad City Federation of Labor, Maine AFL-CIO, Washington State Labor Council, and the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers violated 2 U.S.C. § 441b(a) and took no further action.

As to MPC and Michael S. Berman, as treasurer, the Commission determined on May 21, 1985, that: there was no probable cause to believe MPC and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a) by accepting an in-kind contribution from 55 labor organizations including the AFL-CIO, National Education Association, NEA-New Hampshire, Iowa Federation of Labor, New Hampshire State Labor Council, and the Alabama Labor Council; there was probable cause to believe MPC and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a) by accepting an in-kind contribution from five labor organizations (Quad City Federation of Labor; Maine AFL-CIO; Washington State Labor Council; Iowa State Education Association; International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers) and took no further action. Also on May 21, 1985, after finding reason to believe on June 12, 1984, the Commission determined to take no further action against MPC and Michael S. Berman, as treasurer, with respect to acceptance of an in-kind contribution from the Alabama Education Association. With respect to Walter F. Mondale, the Commission determined on May 21, 1985, to find no probable cause to believe Walter F. Mondale violated 2 U.S.C. § 441b(a) by accepting an in-kind contribution from the 61 labor organizations discussed above.

Accordingly, the entire file in this matter was closed on July 9, 1985. This matter will become part of the public record within 30 days. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosures
General Counsels' Reports

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 22, 1985

Michael Hamilton, Esquire
United Paperworkers International Union
Legal Department
P.O. Box 1475
Nashville, TN 37202

RE: MUR 1641
U.P.I.U. Local 75;
U.P.I.U. Local 61

Dear Mr. Hamilton:

This is to advise you that after an investigation was conducted, the Commission concluded on July 9 , 1985, that there is no probable cause to believe Locals 75 and 61 of the United Paperworkers International Union violated 2 U.S.C. § 441b(a). Accordingly, the file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 22, 1985

Joseph M. Guzinski, Esquire
Peterson, Goodman, Weiners and
Guzinski
202 Omni Building
1652 Greenview Drive, S.W.
Rochester, MN 55903

RE: MUR 1641
Hotel, Hospital, Restaurant,
and Tavern Employees,
Local 21

Dear Mr. Guzinski:

This is to advise you that after an investigation was conducted, the Commission concluded on July 9, 1985, that there is no probable cause to believe your client, Hotel, Hospital, Restaurant and Tavern Employees, Local 21, violated 2 U.S.C. § 441b(a). Accordingly, the file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 22, 1985

Robert D. Kurnick, Esquire
Sherman, Dunn, Cohen, Leifer & Counts
1125 Fifteenth Street, N.W.
Washington, D.C. 20005

RE: MUR 1641
IBEW, Local 2320
IBEW, Local 292
IBEW, Local 252
IBEW, Local 405

Dear Mr. Kurnick:

This is to advise you that after an investigation was conducted, the Commission concluded on July 9 , 1985, that there is no probable cause to believe your clients, Locals 2320, 292, and 252 of the IBEW violated 2 U.S.C. § 441b(a). You were previously notified on April 3, 1985, that the Commission had closed the file with respect to Local 405 of the IBEW. The entire file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 22, 1985

Ralph M. Hettinga, Jr.
645 Compress Road
Las Cruces, New Mexico 88001

RE: MUR 1641

Dear Mr. Hettinga:

This is in reference to the complaint you filed on March 6, 1984, against the Mondale for President Committee, Inc. ("MPC"), Michael S. Berman, as treasurer, Walter F. Mondale, the AFL-CIO, the National Education Association, NEA-New Hampshire, the Alabama Education Association, the Iowa State Education Association, the Iowa Federation of Labor, the New Hampshire State Labor Council, and the Alabama Labor Council.

After conducting an investigation the Commission concluded on May 21, 1985, that there was no probable cause to believe NEA-New Hampshire and the New Hampshire State Labor Council violated 2 U.S.C. § 441b(a), and that there was probable cause to believe the Iowa State Education Association violated 2 U.S.C. § 441b(a) and took no further action. On July 9, 1985, the Commission further determined: that there was no reason to believe the AFL-CIO, National Education Association, the Iowa Federation of Labor, and the Alabama Labor Council violated 2 U.S.C. § 441b(a); and, to close the file with respect to the Alabama Education Association after taking no action on September 18, 1984.

In addition to the above, the Commission concluded on March 26, 1985, that there was no probable cause to believe the: Brevard County Central Labor Council; United Carpenters and Joiners of America, Local 7; Clinton Labor Congress; Black Hawk Labor Temple Corporation; Laborers International Union of North America; IBEW, Local 405; and UAW, Local 442 violated 2 U.S.C. § 441b(a). The Commission further concluded on July 9, 1985, that there was no probable cause to believe the following labor organizations violated 2 U.S.C. § 441b(a):

1. Bakery, Confectionary and Tobacco Workers International Union, Local 275
2. American Federation of Teachers
3. American Federation of Teachers, Local 2309 (Oklahoma City Federation of Teachers)

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4. Massachusetts Federation of Teachers
5. CWA, Local 6010
6. Michigan Education Association-NEA, Local 1 (MEA-NEA)
7. Massachusetts Teachers Association
8. United Union of Roofers, Waterproofers and Allied Workers, Local 70
9. IBEW, Local 252
10. IBEW, Local 2320
11. United Brotherhood of Carpenters and Joiners of America, Local 678
12. United Brotherhood of Carpenters and Joiners of America, Local 512
13. United Brotherhood of Carpenters and Joiners of America, Local 766
14. Keokuk Labor Fraternal Council
15. UFCW, Local 6P
16. UFCW, Local 47P
17. UFCW, Local 1439
18. UFCW, Local 71
19. UFCW, Locl 1169
20. UFCW, Local 31P
21. UFCW, Local 1161
22. UFCW
23. IBEW, Local 292
24. Hotel, Hospital, Restaurant and Tavern Employees Union, Local 21
25. United Steelworkers of America, Local 3539
26. United Steelworkers of America, Local 2944
27. United Paperworkers International Union, Local 61
28. Muskegon County UAW CAP Council
29. Greater Flint AFL-CIO
30. Ohio AFL-CIO
31. AFSCME District Council 37, Local 372
32. United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the U.S. and Canada, Local 190
33. Minneapolis Building and Construction Trades Council
34. Trowel Trades, Local 14 International Union of Bricklayers and Allied Craftsman
35. Hillsborough County Central Labor Council
36. Wisconsin AFL-CIO
37. United Paperworkers International Union, Local 75
38. CWA, Local 4305
39. CWA, Local 1365
40. Burlington County Education Association
41. Clark County Classroom Teachers Association
42. Muskogee and Vicinity Central Labor Council

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Finally, on July 9, 1985, the Commission determined that there was probable cause to believe the Quad City Federation of Labor, Maine AFL-CIO, Washington State Labor Council, and the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers violated 2 U.S.C. § 441b(a) and took no further action.

As to MPC and Michael S. Berman, as treasurer, the Commission determined on May 21, 1985, that: there was no probable cause to believe MPC and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a) by accepting an in-kind contribution from 55 labor organizations including the AFL-CIO, National Education Association, NEA-New Hampshire, Iowa Federation of Labor, New Hampshire State Labor Council, and the Alabama Labor Council; there was probable cause to believe MPC and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a) by accepting an in-kind contribution from five labor organizations (Quad City Federation of Labor; Maine AFL-CIO; Washington State Labor Council; Iowa State Education Association; International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers) and took no further action. Also on May 21, 1985, after finding reason to believe on June 12, 1984, the Commission determined to take no further action against MPC and Michael S. Berman, as treasurer, with respect to acceptance of an in-kind contribution from the Alabama Education Association. With respect to Walter F. Mondale, the Commission determined on May 21, 1985, to find no probable cause to believe Walter F. Mondale violated 2 U.S.C. § 441b(a) by accepting an in-kind contribution from the 61 labor organizations discussed above.

Accordingly, the entire file in this matter was closed on July 9, 1985. This matter will become part of the public record within 30 days. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosures
General Counsels' Reports

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 22, 1985

Kathy L. Krieger, Esquire
United Brotherhood of Carpenters and
Joiners of America
101 Constitution Avenue, N.W.
Washington, D.C. 20001

RE: MUR 1641
UBCJA, Local 678
UBCJA, Local 512

Dear Ms. Krieger:

This is to advise you that after an investigation was conducted, the Commission concluded on July 9 , 1985, that there is no probable cause to believe Locals 678 and 512 of the United Brotherhood of Carpenters and Joiners of America violated 2 U.S.C. § 441b(a). Accordingly, the file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 22, 1985

Alan V. Reuther, Assistant General Counsel
International Union, United Automobile,
Aerospace and Agricultural Implement
Workers of America, UAW
1757 N Street, N.W.
Washington, D.C. 20036

RE: MUR 1641
Muskegon County
UAW CAP Council;
UAW, Local 442

Dear Mr. Reuther:

This is to advise you that after an investigation was conducted, the Commission concluded on July 9 , 1985, that there is no probable cause to believe the Muskegon County UAW CAP Council violated 2 U.S.C. § 441b(a). You were previously notified on April 3, 1985, that the Commission had closed the file with respect to UAW, Local 442. The entire file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 22, 1985

James B. Coppess, Esquire
Adair, Scanlon and McHugh
Suite 411
1925 K Street, N.W.
Washington, D.C. 20006

RE: MUR 1641
CWA, Local 1365
CWA, Local 4305
CWA, Local 6010

Dear Mr. Coppess:

This is to advise you that after an investigation was conducted, the Commission concluded on July 9 , 1985, that there is no probable cause to believe your clients, Locals 1365, 4305, and 6010 of the Communications Workers of America, violated 2 U.S.C. § 441b(a). Accordingly, the file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 22, 1985

William H. Schmelling, Esquire
United Steelworkers of America
One East Wacker Drive
Suite 1910
Chicago, Illinois 60601-1980

RE: MUR 1641
United Steelworkers of America, Locals 2944 and 3539

Dear Mr. Schmelling:

This is to advise you that after an investigation was conducted, the Commission concluded on July 9 , 1985, that there is no probable cause to believe Locals 2944 and 3539 of the United Steelworkers of America violated 2 U.S.C. § 441b(a). Accordingly, the file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 22, 1985

Richard A. Miller, Esquire
Sigal and Miller
1208 Plymouth Building
Minneapolis, MN 55402-1529

RE: MUR 1641
Minneapolis Building and
Construction Trades Council

Dear Mr. Miller:

This is to advise you that after an investigation was conducted, the Commission concluded on July 9 , 1985, that there is no probable cause to believe your client, the Minneapolis Building and Construction Trades Council, violated 2 U.S.C. § 441b(a). Accordingly, the file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 22, 1985

William D. Barber, Business Agent
United Union of Roofers, Waterproofers
and Allied Workers, Local 70
5300 West Michigan Avenue
Ypsilanti, Michigan 48197

RE: MUR 1641
United Union of Roofers,
Waterproofers and Allied
Workers, Local 70

Dear Mr. Barber:

This is to advise you that after an investigation was conducted, the Commission concluded on July 9, 1985, that there is no probable cause to believe the United Union of Roofers, Waterproofers and Allied Workers, Local 70 violated 2 U.S.C. § 441b(a). Accordingly, the file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 22, 1985

David Ifshin, General Counsel
Carolyn Oliphant, Deputy Counsel
Mondale for President Committee, Inc.
Suite 318
2233 Wisconsin Avenue, N.W.
Washington, D.C. 20007

RE: MUR 1641
Mondale for President Committee, Inc;
Michael F. Berman, as treasurer;
Walter F. Mondale

Dear Mr. Ifshin and Ms. Oliphant:

This is to advise you that the entire file in this matter has now been closed and will become part of the public record within 30 days. Should you wish to submit any legal or factual materials to be placed on the public record in connection with this matter, please do so within 10 days.

If you have any questions, contact Maura White, the staff member assigned to this matter, at (202) 523-4141.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 22, 1985

Orrin Baird, Esquire
Connerton, Bernstein and Katz
Suite 800
1899 L Street, NW
Washington, D.C. 20036

RE: MUR 1641
Laborers International
Union of North America

Dear Mr. Baird:

This is to advise you that the entire file in this matter has now been closed and will become part of the public record within 30 days. Should you wish to submit any legal or factual materials to be placed on the public record in connection with this matter, please do so within 10 days.

If you have any questions please contact Maura White at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 22, 1985

Charles L. Bell, President
Brevard County Central Labor Council
1122 Lake Drive
P.O. Box 3787
Cocoa, FL 32922

RE: MUR 1641
Brevard County Central Labor Council

Dear Mr. Bell:

This is to advise you that the entire file in this matter has now been closed and will become part of the public record within 30 days. Should you wish to submit any legal or factual materials to be placed on the public record in connection with this matter, please do so within 10 days.

If you have any questions please contact Maura White at 523-4143.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 22, 1985

Roger A. Jensen, Esquire
Peterson, Bell, and Converse
2100 American National Bank Building
101 East Fifth Street
St. Paul, Minnesota 55101

RE: MUR 1641
United Carpenters and
Joiners of America, Local 7

Dear Mr. Jensen:

This is to advise you that the entire file in this matter has now been closed and will become part of the public record within 30 days. Should you wish to submit any legal or factual materials to be placed on the public record in connection with this matter, please do so within 10 days.

If you have any questions please contact Maura White at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 22, 1985

Robert A. Goldman, Esquire
Tuveson, Goldman and Nelson
146 West Clark
P.O. Box 1009
Albert Lea, Minnesota 56007

RE: MUR 1641
UBCJA, Local 766

Dear Mr. Goldman:

This is to advise you that after an investigation was conducted, the Commission concluded on July 9 , 1985, that there is no probable cause to believe your client, Local 766 of the United Brotherhood of Carpenters and Joiners of America, violated 2 U.S.C. § 441b(a). Accordingly, the file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 22, 1985

Robert H. Chanin, General Counsel
Joy Koletsky, Esquire
National Education Association
1201 16th Street, N.W.
Washington, D.C. 20036

RE: MUR 1641

Dear Mr. Chanin and Ms. Koletsky:

This is to advise you that after an investigation was conducted, the Commission concluded on July 9 , 1985, that there is no probable cause to believe the Burlington County Education Association, the Clark County Classroom Teachers Association, the Massachusetts Teachers Association, and MEA-NEA, Local 1 violated 2 U.S.C. § 441b(a). The Commission also determined on July 9 , 1985, to find no reason to believe the National Education Association violated 2 U.S.C. § 441b(a), and determined to close the file with respect to the Alabama Education Association.

You were previously notified by letter dated May 28 , 1985, that the file in this matter was closed with respect to the Iowa State Education Association and NEA-New Hampshire. This is to notify you that the entire file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 22, 1985

Margaret E. McCormick, Esquire
AFL-CIO Legal Department
815 Sixteenth Street, N.W.
Washington, D.C. 20006

RE: MUR 1641

Dear Ms. McCormick:

This is to advise you that after an investigation was conducted, the Commission concluded on July 9 , 1985, that there is no probable cause to believe your clients: Trowel Trades, Local 14 of the International Union of Bricklayers and Allied Craftsmen; Greater Flint AFL-CIO; Keokuk Labor Fraternal Council; Ohio AFL-CIO; Wisconsin AFL-CIO; Hillsborough County Central Labor Council; and, Muskogee and Vicinity Central Labor Council violated 2 U.S.C. § 441b(a). The Commission also determined on July 9 , 1985, to find probable cause to believe the Quad City Federation of Labor, Maine AFL-CIO, and Washington State Labor Council violated 2 U.S.C. § 441b(a) and to take no further action. In addition, the Commission determined on July 9, 1985, to find no reason to believe the AFL-CIO, Alabama Labor Council, and Iowa Federation of Labor violated 2 U.S.C. § 441b(a).

You were previously notified that the Commission has closed its file with respect to the Black Hawk Labor Temple Corporation, the Clinton Labor Congress (AFL-CIO), and the New Hampshire State Labor Council. This is to notify you that the entire file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

22 July, 1985

William C. Oldaker, Esquire
Epstein, Becker, Barsody and Green
1140 - 19th Street, N.W.
Washington, D.C. 20036

RE: MUR 1641
AFT; Oklahoma City
Federation of Teachers (AFT)
Local 2309; Massachusetts
Federation of Teachers

Dear Mr. Oldaker:

This is to advise you that after an investigation was conducted, the Commission concluded on July 9 , 1985, that there is no probable cause to believe your clients: American Federation of Teachers; Oklahoma City Federation of Teachers, Local 2309, and, Massachusetts Federation of Teachers, violated 2 U.S.C. § 441b(a). Accordingly, the file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 22, 1985

Patrick White, Esquire
Blake and Uhlig
475 New Brotherhood Building
Eighth and State Avenue
Kansas City, Kansas 66101

RE: MUR 1641
International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Folgers and Helpers

Dear Mr. White:

This is to advise you that after an investigation was conducted, the Commission concluded on July 9, 1985, that there is probable cause to believe your client, the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, violated 2 U.S.C. § 441b(a) and determined to take no further action. Accordingly, the file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 22, 1985

Larry P. Weinberg, Esquire
Kirschner, Weinberg, Dempsey, Walters
and Willig
1100 17th Street, N.W.
Suite 800
Washington, D.C. 20036

RE: MUR 1641
AFSCME District Council 37,
Local 372

Dear Mr. Weinberg:

This is to advise you that after an investigation was conducted, the Commission concluded on July 9 , 1985, that there is no probable cause to believe your client, AFSCME District Council 37, Local 372, violated 2 U.S.C. § 441b(a). Accordingly, the file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 22, 1985

Robert Matisoff, Esquire
O'Donoghue and O'Donoghue
4748 Wisconsin Avenue, N.W.
Washington, D.C. 20016

RE: MUR 1641
United Association of
Journeymen and Apprentices
of the Plumbing and Pipe-
fitting Industry of the U.S.
and Canada, Local 190

Dear Mr. Matisoff:

This is to advise you that after an investigation was conducted, the Commission concluded on July 9 , 1985, that there is no probable cause to believe your client, the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the U.S. and Canada, Local 190, violated 2 U.S.C. § 441b(a). Accordingly, the file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

22 July, 1985

Carrol P. St. Peter, Business Agent
Bakery, Confectionary and Tobacco Workers
International Union, Local 275
154 State Street
Presque Isle, Maine 04769

RE: MUR 1641
Bakery, Confectionary and
Tobacco Workers
International Union
Local 275

Dear Ms. St. Peter:

This is to advise you that after an investigation was conducted, the Commission concluded on July 9 , 1985, that there is no probable cause to believe the Bakery, Confectionary and Tobacco Workers International Union, Local 275 violated 2 U.S.C. § 441b(a). Accordingly, the file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 22, 1985

Edward Wendel, Esquire
United Food and Commercial Workers
International Union
1775 K Street, N.W.
Washington, D.C. 20006

RE: MUR 1641
UFCW; UFCW Locals 6P, 1161,
1169, 31P, 71, 47P, and 1439

Dear Mr. Wendel:

This is to advise you that after an investigation was conducted, the Commission concluded on July 9 , 1985, that there is no probable cause to believe UFCW and UFCW Locals 6P, 1161, 1169, 31P, 71, 47P, and 1439 violated 2 U.S.C. § 441b(a). Accordingly, the file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1641
51 Labor Unions)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of July 9, 1985, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 1641:

1. Find no reason to believe the following unions violated 2 U.S.C. § 441b(a):

    1. AFL-CIO
    2. National Education Association
    3. Iowa Federation of Labor
    4. Alabama Labor Council

2. Find no probable cause to believe the following unions violated 2 U.S.C. § 441b(a):

    1. Bakery, Confectionary and Tobacco Workers International Union, Local 275
    2. American Federation of Teachers
    3. American Federation of Teachers, Local 2309 (Oklahoma City Federation of Labor)
    4. Massachusetts Federation of Teachers
    5. CWA, Local 6010
    6. Michigan Education Association-NEA, (Local 1 (MEA-NEA)
    7. Massachusetts Teachers Association
    8. United Union of Roofers, Waterproofers and Allied Workers, Local 70
    9. IBEW, Local 252
    10. IBEW, Local 2320

(continued)

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11. United Brotherhood of Carpenters and Joiners of America, Local 678
12. United Brotherhood of Carpenters and Joiners of America, Local 512
13. United Brotherhood of Carpenters and Joiners of America, Local 766
14. Keokuk Labor Fraternal Council
15. UFCW, Local 6P
16. UFCW, Local 47P
17. UFCW, Local 1439
18. UFCW, Local 71
19. UFCW, Local 1169
20. UFCW, Local 31P
21. UFCW, Local 1161
22. UFCW
23. IBEW, Local 292
24. Hotel, Hospital, Restaurant and Tavern Employees Union, Local 21
25. United Steelworkers of America, Local 3539
26. United Steelworkers of America, Local 2944
27. United Paperworkers International Union, Local 61
28. Muskegon County UAW CAP Council
29. Greater Flint AFL-CIO
30. Ohio AFL-CIO
31. AFSCME District Council 37, Local 372
32. United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the U.S. and Canada, Local 190
33. Minneapolis Building and Construction Trades Council
34. Trowel Trades, Local 14 International Union of Bricklayers and Allied Craftsman
35. Hillsborough County Central Labor Council
36. Wisconsin AFL-CIO
37. United Paperworkers International Union, Local 75
38. CWA, Local 4305
39. CWA, Local 1365
40. Burlington County Education Association
41. Clark County Classroom Teachers Association
42. Muskogee and Vicinity Central Labor Council

(continued)

3. Find probable cause to believe the following unions violated 2 U.S.C. § 441b(a) and take no further action:

    1. Quad City Federation of Labor
    2. Maine AFL-CIO
    3. Washington State Labor Council
    4. International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers, and Helpers.

4. Close the file.

5. Approve the letters attached to the General Counsel's report.

Commissioners Elliott, Harris, McGarry, McDonald, and Reiche voted affirmatively for the decision; Commissioner Aikens dissented.

Attest:

7-10-85
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary

FROM: Office of General Counsel

DATE: June 25, 1985

SUBJECT: MUR 1641 - General Counsel's Report

The attached is submitted as an Agenda document for the Commission Meeting of July 9, 1985

Open Session ____

Closed Session XX

CIRCULATIONS		DISTRIBUTION	
48 Hour Tally Vote	[ ]	Compliance	[X]
Sensitive	[ ]		
Non-Sensitive	[ ]	Audit Matters	[ ]
24 Hour No Objection	[ ]	Litigation	[ ]
Sensitive	[ ]		
Non-Sensitive	[ ]	Closed MUR Letters	[ ]
Information	[ ]	Status Sheets	[ ]
Sensitive	[ ]		
Non-Sensitive	[ ]	Advisory Opinions	[ ]
Other	[X]	Other (see distribution below)	[ ]

SENSITIVE

CIRCULATE ON BLUE PAPER

On Agenda 07-09-85

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SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY

85 JUN 25 P5:10

In the Matter of)
)
51 Labor Unions) MUR 1641

GENERAL COUNSEL'S REPORT

EXECUTIVE SESSION

JUL 09 1985

I. BACKGROUND

On March 6, 1984, Ralph M. Hettinga, Jr. filed a complaint against the Mondale for President Committee ("MPC") and eight labor unions, specifically: the New Hampshire State Labor Council, the Iowa State Education Association ("ISEA"), the National Education Association of New Hampshire ("NEA-New Hampshire"), the Alabama Education Association, the Alabama Labor Council, the National Education Association, the Iowa Federation of Labor, and the AFL-CIO. On June 12, 1984, the Commission found reason to believe MPC violated 2 U.S.C. § 441b(a), and determined to "hold in abeyance at this time any action" against the above eight labor unions. Subsequently, on September 18, 1984, the Commission determined to find reason to believe MPC, NEA-New Hampshire, the New Hampshire State Labor Council, and ISEA violated 2 U.S.C. § 441b(a), and further determined to take no action "at this time" against the Alabama Education Association, the Alabama Labor Council, the Iowa Federation of Labor, the AFL-CIO, and the National Education Association. Also on September 18, 1984, the Commission found reason to believe that 53 additional labor unions violated 2 U.S.C. § 441b(a).

On January 25, 1985, General Counsel's Briefs were mailed to seven labor unions, and on March 26, 1985, the Commission determined to find no probable cause to believe these seven

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unions violated 2 U.S.C. § 441b(a).1/ On March 25, 1985, General Counsel's Briefs were mailed to MPC, ISEA, NEA-New Hampshire, and the New Hampshire State Labor Council.

On April 26, 1985, General Counsel's Briefs were mailed to 46 labor unions.2/ On May 21, 1985, the Commission determined to find no probable cause to believe the New Hampshire State Labor Council and NEA-New Hampshire violated 2 U.S.C. § 441b(a), and probable cause to believe ISEA violated 2 U.S.C. § 441b(a) and take no further action. With respect to MPC, the Commission determined on May 21, 1985, to: find no probable cause to believe MPC violated 2 U.S.C. § 441b(a) with respect to an in-kind contribution from 55 labor unions; find probable cause to believe MPC violated 2 U.S.C. § 441b(a) with respect to an in-kind contribution from five labor unions and take no further action; and, to take no further action against MPC with respect to an in-kind contribution from one labor union. The Commission also determined, on May 21, 1985, to find no probable cause to believe Walter F. Mondale violated 2 U.S.C. § 441b(a) with respect to acceptance of an in-kind contribution from 61 labor unions.

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1/These unions are the : Brevard County Central Labor Council; UBCJA, Local 7; Clinton Labor Congress; Black Hawk Labor Temple Corporation; Laborers International Union of North America; IBEW, Local 405; and, UAW, Local 442.

2/Between May 14, 1985, and May 27, 1985, response briefs were filed on behalf of 14 labor unions.

II. LEGAL ANALYSIS

A. Unions named in the complaint (AFL-CIO; National Education Association; Iowa Federation of Labor; Alabama Labor Council; Alabama Education Association)

As discussed above, the Commission's most recent determination with respect to these five unions occurred on September 18, 1984, when it determined to "take no action at this time." The General Counsel's Report in this matter dated September 12, 1984, explained that this investigation had not revealed any evidence that the telephones of the AFL-CIO, National Education Association, Iowa Federation of Labor, or the Alabama Labor Council were utilized by MPC. Indeed, in response to the complaint these four unions asserted that they did not permit their facilities or equipment to be utilized by MPC, and at this time there is still no evidence to the contrary. In view of the above it is the recommendation of this office that Commission find no reason to believe the AFL-CIO, National Education Assoiciation, Iowa Federation of Labor, and the Alabama Labor Council violated 2 U.S.C. § 441b(a), and close the file with respect to these respondents.3/ As to the Alabama Education Association, the use of this union's telephones and facilities

3/On May 21, 1985, the Commission determined to find no probable cause to believe MPC violated 2 U.S.C. § 441b(a) by accepting an in-kind contribution from the AFL-CIO, National Education Association, Iowa Federation of Labor, and Alabama Labor Council.

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was the subject of MUR 1776 which was resolved by the Commission on February 21, 1985. Hence, it is the recommendation of this office that the Commission close the file with respect to the Alabama Education Association.4/

B. Internally Generated Unions (46) to Which Briefs were mailed on April 26, 1985

1. Unions concurring with the recommendation of no probable cause to believe.

In their respective response briefs the Hillsborough County Central Labor Council; Trowel Trades Local 14, International Union of Bricklayers and Allied Craftsmen; Greater Flint AFL-CIO; Keokuk Labor Fraternal Council; Ohio AFL-CIO; Wisconsin AFL-CIO; Burlington County Education Association; Clark County Classroom Teachers Association; Massachusetts Teachers Association; and Michigan Education Association - NEA, Local 1 (MEA-NEA) urge the Commission to adopt the General Counsel's recommendation to find no probable cause to believe they violated 2 U.S.C. § 441b(a). See the General Counsel's Briefs. With respect to all of the 41 unions to whom General Counsel's Briefs were mailed recommending a finding of no probable cause to believe it continues to be the recommendation of this office that the Commission find no probable cause to believe they each violated 2 U.S.C. § 441b(a).

4/ MUR 1776 was generated by the filing of a complaint by the same complainant as in the instant matter. On May 21, 1985, the Commission determined to take no further action against MPC with respect to acceptance of an in-kind contribution from the Alabama Education Association.

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2. Unions responding to the recommendation of probable cause to believe

In response to the General Counsels' Briefs the Quad City Federation of Labor, Maine AFL-CIO, and the Washington State Labor Council state that the Commission should reject the General Counsel's recommendation and find no probable cause to believe they each violated the Act. These unions present identical arguments in support of their position. According to the unions, "the Commission's reason to believe determination in this matter is invalid and should be rescinded since in making that determination without first affording respondent an opportunity to demonstrate why no such action should be taken, the Commission violated Section 437g(a) of the Act and Section 111.6 of its regulations." The three unions further claim that "[s]ince the Commission's reason to believe determination against respondent is invalid, the fact that respondent did not bill the Mondale campaign for installation costs until after the date of that determination has no legal significance." The respondents instead emphasize that it is significant that they "voluntarily elected" to bill MPC for installation charges, and MPC has paid the bill. Finally, the respondents insist that the probable cause to believe recommendations are based upon a "novel and erroneous interpretation" of 11 C.F.R. § 114.9(d) "to wit, that the 'normal and usual rental charge' which a labor organization is required to bill a candidate committee for its use of the organization's telephones must include a pro-rata share of the

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telephones' installation charges in the event that the phones used are not existing business telephones and are installed subsequent to a discussion between the labor organization and the campaign."

The arguments raised by the above three unions are without merit in the view of this office. It is true that the respondents were not given an opportunity prior to the reason to believe findings to demonstrate why no action should be taken against them. There is, however, no requirement under the Act or regulations that parties who are internally generated by the Commission as respondents, as were these unions, be given such an opportunity. See 2 U.S.C. § 437g(a) and 11 C.F.R. § 111.8. The Commission's regulations differentiate between complaint generated matters and internally generated matters with respect to an opportunity to demonstrate that no action should be taken prior to a reason to believe finding. Compare 11 C.F.R. § 111.6 and 111.8. The requirement that a person be granted an opportunity to demonstrate "that no action should be taken" against such person pertains solely to respondents named in a complaint. See 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.6. The respondents in this matter were properly notified of the Commission's reason to believe determination and were presented with an opportunity to respond to that determination. See 2 U.S.C. § 437g(a)(2). Hence, the reason to believe findings in this matter are not invalid.

The respondents' contentions that the General Counsel's

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interpretation of 11 C.F.R. § 114.9(d) is erroneous also fails. Although the regulations do address payment of the normal and usual charge when union facilities are utilized, it is an established rule of administrative law that agencies may interpret their own regulations, and that such interpretations are controlling unless "plainly erroneous or inconsistent with the regulation." Sutherland, Statutes and Statutory Construction, § 31.06, quoting Immigration and Naturalization Service v. Stanisic, 395 U.S. 92 (1969). In the instant matter, the position that a political committee is required to pay a portion of installation and deposit costs to a union when the telephones are installed after the political committee expresses to the union its desire to use union telephones, but that such costs need not be paid by the political committee where pre-existing union telephones are involved, reflects a consistent interpretation of the Commission's regulations.

Where pre-existing phones are used there are no costs to the union for installation or deposits connected with the political committee's use and, therefore, no portion of these costs can reasonably be attributed to the political committee involved.[5/] Moreover, in such situations it cannot be argued that the

[5/] It is reasonable not to require a union to charge a political committee for installation and deposit costs when the union does not incur such costs in connection with the committee's use of the union's pre-existing telephones. When such costs are not incurred by a union the committee's payment to a union for present day costs would be difficult to determine accurately and would result in a "profit" to the union because the union would receive reimbursement for costs it did not incur. Moreover, if the union amortized the cost of installation or deposits it paid when the phones were originally installed the resulting amount attributable to the political committee would be nonexistent in most situations and de minimis in the others.

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telephones were installed for the partial benefit of the political committee. However, where the telephones are installed subsequent to discussion with MPC, such telephones must be considered to have been installed for the partial benefit of MPC, and not solely for the union's own purposes. Indeed, in the instant matter the unions do not deny the assertion in the General Counsels' Briefs that the needs of MPC, relayed to the unions during discussions with MPC, may have influenced the arrangement for the installation of the telephones, as well as the timing of the installation. Because the telephones were installed by the unions to partially benefit MPC, it is reasonable to attribute the recent defined costs to MPC and, hence, require the unions to bill MPC for its share of the costs.

The final argument that no violation occurred because the unions voluntarily billed and have been paid for installation costs also fails. Although the regulations do not hinge a violation upon the impetus for billings, the regulations do require billings to occur within a commercially reasonable time. In situations where billings are required to occur by entities which do not routinely bill for services rendered it is often difficult to define a commercially reasonable time. For this reason when the Commission's investigation focuses upon recent or ongoing activity it is necessary to look at whether the billing occured solely as a result of the Commission's findings. Because

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the respective billings did not occur until after the Commission's reason to believe finding, and for at least two of the unions more than six months elapsed between the time MPC last used the phones and the date of the finding, the billings must be considered to be mitigating factors only.

In addition to the above, both the Washington State Labor Council and the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers erroneously argue that no violation should be considered to have occurred with respect to deposit costs incurred by them. In support of its position the Washington State Labor Council explains that the deposit costs was immediately credited back to the union in the first phone bill received, and that "before the period of use ended and therefore before the Council possessed the information necessary to calculate [MPC's] share of the deposit charges, those charges had already been fully offset by a credit in the same amount." The International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers, and Helpers supports its position by stating that even though the telephone bank in Wichita was used exclusively by MPC, there was "no debt due" by MPC to the union for deposit in May 1984 when the union billed MPC for telephone usage because by that time the deposit had been "fully refunded." In the view of this office the arguments that no violation occurred fail because the unions ignore the fact

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that the term "contribution" (2 U.S.C. § 441b(b)(2)) includes a deposit. To be sure, the telephones at issue were installed by the unions after discussion between the unions and MPC concerning MPC's use of the unions' telephones and, hence, a portion of the resulting deposit costs are properly attributable to MPC. Based upon the foregoing, it continues to be the recommendation of this office that the Commission find probable cause to believe the Quad City Federation of Labor, Maine AFL-CIO, Washington State Labor Council, and the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers, and Helpers violated 2 U.S.C. § 441b(a) and take no further action.6/

Finally, Muskogee and Vicinity Central Labor Council responded to the General Counsel's Brief by asserting that it billed MPC for installation costs on June 28, 1984, nearly three months prior to the date of the Commission's reason to believe finding. In view of the fact that evidence has now been presented that this union did in fact bill MPC on its own initiative for installation costs, and not solely in an attempt

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6/On May 21, 1985, the Commission determined to find probable cause to believe MPC violated 2 U.S.C. § 441b(a) by accepting an in-kind contribution from these four unions and took no further action.

to vitiate the violation, it is now the recommendation of this office that the Commission find no probable cause to believe the Muskogee and Vicinity Central Labor Council violated 2 U.S.C. § 441b(a).7/

III. Recommendations

1. Find no reason to believe the following unions violated 2 U.S.C. § 441b(a):

1. AFL-CIO
2. National Education Association
3. Iowa Federation of Labor
4. Alabama Labor Council

2. Find no probable cause to believe the following unions violated 2 U.S.C. § 441b(a):

1. Bakery, Confectionary and Tobacco Workers International Union, Local 275
2. American Federation of Teachers
3. American Federation of Teachers, Local 2309 (Oklahoma City Federation of Labor)
4. Massachusetts Federation of Teachers
5. CWA, Local 6010
6. Michigan Education Association-NEA, Local 1 (MEA-NEA)
7. Massachusetts Teachers Association
8. United Union of Roofers, Waterproofers and Allied Workers, Local 70
9. IBEW, Local 252
10. IBEW, Local 2320
11. United Brotherhood of Carpenters and Joiners of America, Local 678
12. United Brotherhood of Carpenters and Joiners of America, Local 512
13. United Brotherhood of Carpenters and Joiners of America, Local 766
14. Keokuk Labor Fraternal Council
15. UFCW, Local 6P
16. UFCW, Local 47P
17. UFCW, Local 1439
18. UFCW, Local 71
19. UFCW, Local 1169
20. UFCW, Local 31P
21. UFCW, Local 1161
22. UFCW
23. IBEW, Local 292

7/ On May 21, 1985, the Commission determined that there was no probable cause to believe MPC accepted an in-kind contribution from the Muskogee and Vicinity Central Labor Council.

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24. Hotel, Hospital, Restaurant and Tavern Employees Union, Local 21
25. United Steelworkers of America, Local 3539
26. United Steelworkers of America, Local 2944
27. United Paperworkers International Union, Local 61
28. Muskegon County UAW CAP Council
29. Greater Flint AFL-CIO
30. Ohio AFL-CIO
31. AFSCME District Council 37, Local 372
32. United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the U.S. and Canada, Local 190
33. Minneapolis Building and Construction Trades Council
34. Trowel Trades, Local 14 International Union of Bricklayers and Allied Craftsman
35. Hillsborough County Central Labor Council
36. Wisconsin AFL-CIO
37. United Paperworkers International Union, Local 75
38. CWA, Local 4305
39. CWA, Local 1365
40. Burlington County Education Association
41. Clark County Classroom Teachers Association
42. Muskogee and Vicinity Central Labor Council

3. Find probable cause to believe the following unions violated 2 U.S.C. § 441b(a) and take no further action:

1. Quad City Federation of Labor
2. Maine AFL-CIO
3. Washington State Labor Council
4. International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers

4. Close the file.

5. Approve the attached letters.

Date 6/27/85

By: Charles N. Steele
Charles N. Steele
General Counsel

Attachments
Letters (23)

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

William H. Schmelling, Esquire
United Steelworkers of America
One East Wacker Drive
Suite 1910
Chicago, Illinois 60601-1980

RE: MUR 1641
United Steelworkers of America, Locals 2944 and 3539

Dear Mr. Schmelling:

This is to advise you that after an investigation was conducted, the Commission concluded on , 1985, that there is no probable cause to believe Locals 2944 and 3539 of the United Steelworkers of America violated 2 U.S.C. § 441b(a). Accordingly, the file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

James B. Coppess, Esquire
Adair, Scanlon and McHugh
Suite 411
1925 K Street, N.W.
Washington, D.C. 20006

RE: MUR 1641
CWA, Local 1365
CWA, Local 4305
CWA, Local 6010

Dear Mr. Coppess:

This is to advise you that after an investigation was conducted, the Commission concluded on , 1985, that there is no probable cause to believe your clients, Locals 1365, 4305, and 6010 of the Communications Workers of America, violated 2 U.S.C. § 441b(a). Accordingly, the file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Kathy L. Krieger, Esquire
United Brotherhood of Carpenters and
Joiners of America
101 Constitution Avenue, N.W.
Washington, D.C. 20001

RE: MUR 1641
UBCJA, Local 678
UBCJA, Local 512

Dear Ms. Krieger:

This is to advise you that after an investigation was conducted, the Commission concluded on , 1985, that there is no probable cause to believe Locals 678 and 512 of the United Brotherhood of Carpenters and Joiners of America violated 2 U.S.C. § 441b(a). Accordingly, the file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

William D. Barber, Business Agent
United Union of Roofers, Waterproofers
and Allied Workers, Local 70
5300 West Michigan Avenue
Ypsilanti, Michigan 48197

RE: MUR 1641
United Union of Roofers,
Waterproofers and Allied
Workers, Local 70

Dear Mr. Barber:

This is to advise you that after an investigation was conducted, the Commission concluded on , 1985, that there is no probable cause to believe the United Union of Roofers, Waterproofers and Allied Workers, Local 70 violated 2 U.S.C. § 441b(a). Accordingly, the file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Robert A. Goldman, Esquire
Tuveson, Goldman and Nelson
146 West Clark
P.O. Box 1009
Albert Lea, Minnesota 56007

RE: MUR 1641
UBCJA, Local 766

Dear Mr. Goldman:

This is to advise you that after an investigation was conducted, the Commission concluded on , 1985, that there is no probable cause to believe your client, Local 766 of the United Brotherhood of Carpenters and Joiners of America, violated 2 U.S.C. § 441b(a). Accordingly, the file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Joseph M. Guzinski, Esquire
Peterson, Goodman, Weiners and
Guzinski
202 Omni Building
1652 Greenview Drive, S.W.
Rochester, MN 55903

RE: MUR 1641
Hotel, Hospital, Restaurant,
and Tavern Employees,
Local 21

Dear Mr. Guzinski:

This is to advise you that after an investigation was conducted, the Commission concluded on , 1985, that there is no probable cause to believe your client, Hotel, Hospital, Restaurant and Tavern Employees, Local 21, violated 2 U.S.C. § 441b(a). Accordingly, the file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Michael Hamilton, Esquire
United Paperworkers International Union
Legal Department
P.O. Box 1475
Nashville, TN 37202

RE: MUR 1641
U.P.I.U. Local 75;
U.P.I.U. Local 61

Dear Mr. Hamilton:

This is to advise you that after an investigation was conducted, the Commission concluded on , 1985, that there is no probable cause to believe Locals 75 and 61 of the United Paperworkers International Union violated 2 U.S.C. § 441b(a). Accordingly, the file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Edward Wendel, Esquire
United Food and Commercial Workers
International Union
1775 K Street, N.W.
Washington, D.C. 20006

RE: MUR 1641
UFCW; UFCW Locals 6P, 1161,
1169, 31P, 71, 47P, and 1439

Dear Mr. Wendel:

This is to advise you that after an investigation was conducted, the Commission concluded on , 1985, that there is no probable cause to believe UFCW and UFCW Locals 6P, 1161, 1169, 31P, 71, 47P, and 1439 violated 2 U.S.C. § 441b(a). Accordingly, the file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Larry P. Weinberg, Esquire
Kirschner, Weinberg, Dempsey, Walters
and Willig
1100 17th Street, N.W.
Suite 800
Washington, D.C. 20036

RE: MUR 1641
AFSCME District Council 37,
Local 372

Dear Mr. Weinberg:

This is to advise you that after an investigation was conducted, the Commission concluded on , 1985, that there is no probable cause to believe your client, AFSCME District Council 37, Local 372, violated 2 U.S.C. § 441b(a). Accordingly, the file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Carrol P. St. Peter, Business Agent
Bakery, Confectionary and Tobacco Workers
International Union, Local 275
154 State Street
Presque Isle, Maine 04769

RE: MUR 1641
Bakery, Confectionary and
Tobacco Workers
International Union
Local 275

8504054099665

Dear Ms. St. Peter:

This is to advise you that after an investigation was conducted, the Commission concluded on , 1985, that there is no probable cause to believe the Bakery, Confectionary and Tobacco Workers International Union, Local 275 violated 2 U.S.C. § 441b(a). Accordingly, the file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

10

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Robert Matisoff, Esquire
O'Donoghue and O'Donoghue
4748 Wisconsin Avenue, N.W.
Washington, D.C. 20016

RE: MUR 1641
United Association of
Journeymen and Apprentices
of the Plumbing and Pipe-
fitting Industry of the U.S.
and Canada, Local 190

Dear Mr. Matisoff:

This is to advise you that after an investigation was conducted, the Commission concluded on , 1985, that there is no probable cause to believe your client, the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the U.S. and Canada, Local 190, violated 2 U.S.C. § 441b(a). Accordingly, the file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

William C. Oldaker, Esquire
Epstein, Becker, Barsody and Green
1140 - 19th Street, N.W.
Washington, D.C. 20036

RE: MUR 1641
AFT; Oklahoma City
Federation of Teachers (AFT)
Local 2309; Massachusetts
Federation of Teachers

Dear Mr. Oldaker:

This is to advise you that after an investigation was conducted, the Commission concluded on , 1985, that there is no probable cause to believe your clients: American Federation of Teachers; Oklahoma Federation of Teachers, Local 2309, and, Massachusetts Federation of Teachers, violated 2 U.S.C. § 441b(a). Accordingly, the file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Robert D. Kurnick, Esquire
Sherman, Dunn, Cohen, Leifer & Counts
1125 Fifteenth Street, N.W.
Washington, D.C. 20005

RE: MUR 1641
IBEW, Local 2320
IBEW, Local 292
IBEW, Local 252
IBEW, Local 405

Dear Mr. Kurnick:

This is to advise you that after an investigation was conducted, the Commission concluded on , 1985, that there is no probable cause to believe your clients, Locals 2320, 292, and 252 of the IBEW violated 2 U.S.C. § 441b(a). You were previously notified on April 3, 1985, that the Commission had closed the file with respect to Local 405 of the IBEW. The entire file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Alan V. Reuther, Assistant General Counsel
International Union, United Automobile,
Aerospace and Agricultural Implement
Workers of America, UAW
1757 N Street, N.W.
Washington, D.C. 20036

RE: MUR 1641
Muskegon County
UAW CAP Council;
UAW, Local 442

Dear Mr. Reuther:

This is to advise you that after an investigation was conducted, the Commission concluded on , 1985, that there is no probable cause to believe the Muskegon County UAW CAP Council violated 2 U.S.C. § 441b(a). You were previously notified on April 3, 1985, that the Commission had closed the file with respect to UAW, Local 442. The entire file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Richard A. Miller, Esquire
Sigal and Miller
1208 Plymouth Building
Minneapolis, MN 55402-1529

RE: MUR 1641
Minneapolis Building and
Construction Trades Council

Dear Mr. Miller:

This is to advise you that after an investigation was conducted, the Commission concluded on , 1985, that there is no probable cause to believe your client, the Minneapolis Building and Construction Trades Council, violated 2 U.S.C. § 441b(a). Accordingly, the file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Margaret E. McCormick, Esquire
AFL-CIO Legal Department
815 Sixteenth Street, N.W.
Washington, D.C. 20006

RE: MUR 1641

Dear Ms. McCormick:

This is to advise you that after an investigation was conducted, the Commission concluded on , 1985, that there is no probable cause to believe your clients: Trowel Trades, Local 14 of the International Union of Bricklayers and Allied Craftsmen; Greater Flint AFL-CIO; Keokuk Labor Fraternal Council; Ohio AFL-CIO; Wisconsin AFL-CIO; Hillsborough County Central Labor Council; and, Muskogee and Vicinity Central Labor Council violated 2 U.S.C. § 441b(a). The Commission also determined on , 1985, to find probable cause to believe the Quad City Federation of Labor, Maine AFL-CIO, and Washington State Labor Council violated 2 U.S.C. § 441b(a) and to take no further action. In addition, the Commission determined on , 1985, to find no reason to believe the AFL-CIO, Alabama Labor Council, and Iowa Federation of Labor violated 2 U.S.C. § 441b(a).

You were previously notified that the Commission has closed its file with respect to the Black Hawk Labor Temple Corporation, the Clinton Labor Congress (AFL-CIO), and the New Hampshire State Labor Council. This is to notify you that the entire file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Robert H. Chanin, General Counsel
Joy Koletsky, Esquire
National Education Association
1201 16th Street, N.W.
Washington, D.C. 20036

RE: MUR 1641

Dear Mr. Chanin and Ms. Koletsky:

This is to advise you that after an investigation was conducted, the Commission concluded on , 1985, that there is no probable cause to believe the Burlington County Education Association, the Clark County Classroom Teachers Association, the Massachusetts Teachers Association, and MEA-NEA, Local 1 violated 2 U.S.C. § 441b(a). The Commission also determined on , 1985, to find no reason to believe the National Education Association violated 2 U.S.C. § 441b(a), and determined to close the file with respect to the Alabama Education Association.

You were previously notified by letter dated , 1985, that the file in this matter was closed with respect to the Iowa State Education Association and NEA-New Hampshire. This is to notify you that the entire file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Patrick White, Esquire
Blake and Uhlig
475 New Brotherhood Building
Eighth and State Avenue
Kansas City, Kansas 66101

RE: MUR 1641
International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Folgers and Helpers

Dear Mr. White:

This is to advise you that after an investigation was conducted, the Commission concluded on , 1985, that there is probable cause to believe your client, the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, violated 2 U.S.C. § 441b(a) and determined to take no further action. Accordingly, the file in this matter is now closed and will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

David Ifshin, General Counsel
Carolyn Oliphant, Deputy Counsel
Mondale for President Committee, Inc.
Suite 318
2233 Wisconsin Avenue, N.W.
Washington, D.C. 20007

RE: MUR 1641
Mondale for President Committee, Inc;
Michael F. Berman, as treasurer;
Walter F. Mondale

Dear Mr. Ifshin and Ms. Oliphant:

This is to advise you that the entire file in this matter has now been closed and will become part of the public record within 30 days. Should you wish to submit any legal or factual materials to be placed on the public record in connection with this matter, please do so within 10 days.

If you have any questions, contact Maura White, the staff member assigned to this matter, at (202) 523-4141.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Charles L. Bell, President
Brevard County Central Labor Council
1122 Lake Drive
P.O. Box 3787
Cocoa, FL 32922

RE: MUR 1641
Brevard County Central Labor Council

Dear Mr. Bell:

This is to advise you that the entire file in this matter has now been closed and will become part of the public record within 30 days. Should you wish to submit any legal or factual materials to be placed on the public record in connection with this matter, please do so within 10 days.

If you have any questions please contact Maura White at 523-4143.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

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20

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Roger A. Jensen, Esquire
Peterson, Bell, and Converse
2100 American National Bank Building
101 East Fifth Street
St. Paul, Minnesota 55101

RE: MUR 1641
United Carpenters and
Joiners of America, Local 7

Dear Mr. Jensen:

This is to advise you that the entire file in this matter has now been closed and will become part of the public record within 30 days. Should you wish to submit any legal or factual materials to be placed on the public record in connection with this matter, please do so within 10 days.

If you have any questions please contact Maura White at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

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21

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Orrin Baird, Esquire
Connerton, Bernstein and Katz
Suite 800
1899 L Street, NW
Washington, D.C. 20036

RE: MUR 1641
Laborers International
Union of North America

Dear Mr. Baird:

This is to advise you that the entire file in this matter has now been closed and will become part of the public record within 30 days. Should you wish to submit any legal or factual materials to be placed on the public record in connection with this matter, please do so within 10 days.

If you have any questions please contact Maura White at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Ralph M. Hettinga, Jr.
645 Compress Road
Las Cruces, New Mexico 88001

RE: MUR 1641

Dear Mr. Hettinga:

This is in reference to the complaint you filed on March 6, 1984, against the Mondale for President Committee, Inc. ("MPC"), Michael S. Berman, as treasurer, Walter F. Mondale, the AFL-CIO, the National Education Association, NEA-New Hampshire, the Alabama Education Association, the Iowa State Education Association, the Iowa Federation of Labor, the New Hampshire State Labor Council, and the Alabama Labor Council.

After conducting an investigation the Commission concluded on May 21, 1985, that there was no probable cause to believe NEA-New Hampshire and the New Hampshire State Labor Council violated 2 U.S.C. § 441b(a), and that there was probable cause to believe the Iowa State Education Association violated 2 U.S.C. § 441b(a) and took no further action. On , 1985, the Commission further determined: that there was no reason to believe the AFL-CIO, National Education Association, the Iowa Federation of Labor, and the Alabama Labor Council violated 2 U.S.C. § 441b(a); and, to close the file with respect to the Alabama Education Association after taking no action on September 18, 1984.

In addition to the above, the Commission concluded on March 26, 1985, that there was no probable cause to believe the: Brevard County Central Labor Council; United Carpenters and Joiners of America, Local 7; Clinton Labor Congress; Black Hawk Labor Temple Corporation; Laborers International Union of North America; IBEW, Local 405; and UAW, Local 442 violated 2 U.S.C. § 441b(a). The Commission further concluded on , 1985, that there was no probable cause to believe the following labor organizations violated 2 U.S.C. § 441b(a):

1. Bakery, Confectionary and Tobacco Workers International Union, Local 275
2. American Federation of Teachers
3. American Federation of Teachers, Local 2309 (Oklahoma City Federation of Teachers)

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4. Massachusetts Federation of Teachers
5. CWA, Local 6010
6. Michigan Education Association-NEA, Local 1 (MEA-NEA)
7. Massachusetts Teachers Association
8. United Union of Roofers, Waterproofers and Allied Workers, Local 70
9. IBEW, Local 252
10. IBEW, Local 2320
11. United Brotherhood of Carpenters and Joiners of America, Local 678
12. United Brotherhood of Carpenters and Joiners of America, Local 512
13. United Brotherhood of Carpenters and Joiners of America, Local 766
14. Keokuk Labor Fraternal Council
15. UFCW, Local 6P
16. UFCW, Local 47P
17. UFCW, Local 1439
18. UFCW, Local 71
19. UFCW, Locl 1169
20. UFCW, Local 31P
21. UFCW, Local 1161
22. UFCW
23. IBEW, Local 292
24. Hotel, Hospital, Restaurant and Tavern Employees Union, Local 21
25. United Steelworkers of America, Local 3539
26. United Steelworkers of America, Local 2944
27. United Paperworkers International Union, Local 61
28. Muskegon County UAW CAP Council
29. Greater Flint AFL-CIO
30. Ohio AFL-CIO
31. AFSCME District Council 37, Local 372
32. United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the U.S. and Canada, Local 190
33. Minneapolis Building and Construction Trades Council
34. Trowel Trades, Local 14 International Union of Bricklayers and Allied Craftsman
35. Hillsborough County Central Labor Council
36. Wisconsin AFL-CIO
37. United Paperworkers International Union, Local 75
38. CWA, Local 4305
39. CWA, Local 1365
40. Burlington County Education Association
41. Clark County Classroom Teachers Association
42. Muskogee and Vicinity Central Labor Council

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Finally on , 1985, the Commission determined that there was probable cause to believe the Quad City Federation of Labor, Maine AFL-CIO, Washington State Labor Council, and the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers violated 2 U.S.C. § 441b(a) and took no further action.

As to MPC and Michael S. Berman, as treasurer, the Commission determined on May 21, 1985, that: there was no probable cause to believe MPC and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a) by accepting an in-kind contribution from 55 labor organizations including the AFL-CIO, National Education Association, NEA-New Hampshire, Iowa Federation of Labor, New Hampshire State Labor Council, and the Alabama Labor Council; there was probable cause to believe MPC and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a) by accepting an in-kind contribution from five labor organizations (Quad City Federation of Labor; Maine AFL-CIO; Washington State Labor Council; Iowa State Education Association; International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers) and took no further action. Also on May 21, 1985, after finding reason to believe on June 12, 1984, the Commission determined to take no further action against MPC and Michael S. Berman, as treasurer, with respect to acceptance of an in-kind contribution from the Alabama Education Association. With respect to Walter F. Mondale, the Commission determined on May 21, 1985, to find no probable cause to believe Walter F. Mondale violated 2 U.S.C. § 441b(a) by accepting an in-kind contribution from the 61 labor organizations discussed above.

Accordingly, the file in this matter has been closed. This matter will become part of the public record within 30 days. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosures
General Counsels' Reports

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RECEIVED AT THE FEC

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LAW OFFICES
BLAKE & UHLIG, P.A.
475 NEW BROTHERHOOD BLDG.
EIGHTH AND STATE AVENUE
KANSAS CITY, KANSAS 66101
913/321-8884

JOHN J. BLAKE
RICHARD L. CALCARA
STEVE A. J. BUKATY
JOSEPH W. MORELAND
ROBERT L. DAMERON
THOMAS H. MARSHALL
PATRICK L. DUNN
PATRICK E. WHITE
ELAINE M. EPPRIGHT
MICHAEL T. MANLEY
MICHAEL J. STAPP
WILLIAM S. ROBBINS, JR.
JAMES R. WAERS

ROBERT L. UHLIG (1929-1981)
RICHARD B. THOMPSON (1952-1981)

May 23, 1985

Maura White
Office of the General Counsel
Federal Election Commission
1325 K. Street N.W.
Washington, D.C. 20463

Re: MUR 1641

Dear Ms. White:

Please find enclosed the brief submitted on behalf of the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers regarding the above-captioned matter.

Very cordially yours,

Patrick E. White

PEW/nma

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
International Brotherhood of Boilermakers, Iron and Ship Builders, Blacksmiths, Forgers and Helpers	)	MUR 1641

UNION'S BRIEF

I. STATEMENT OF THE CASE

The union does not contest essential elements as set forth in the General Counsel's statement of the case. The union wishes to point out to the Commission that although the bank of telephones Wichita were used exclusively by the "MPC" that event was the result of the local Unions' failure to provide people to man the phones and was not planned nor anticipated by the union or "MPC".

II. ARGUMENT

General Counsel has suggested to the Commission that the Unions payment of deposit cost was a prohibited transaction in violation of U.S.C. § 441b(a). The unions submits that this position is unreasonable and renders compliance impossible.

As the Commission knows deposit cost are incurred when an installation is first ordered and is based upon number of telephones and lines to be used. At the time the Union incurred the deposit cost in the two subject installations, the Union expected full refund of the deposit and did not know what the precentage of usage by the Union and the "MPC"

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would be. The Union submits that under these circumstances incurring a refundable deposit cost does not constitute a prohibited contribution.

The General Counsel's office has agreed that the method of billing the installation cost to "MPC", which has now been paid in full by the "MPC", was commerically reasonable. The union submits it would have been reasonable to have billed the deposit cost in May of 1984 however by May of 1984 the deposit cost had been fully refunded and there was no debt due.

General Counsel's perhaps could take the position that the deposit cost should have been billed when incurred, however, as stated above apportioning the cost prior to actual usage was impossible. In as much as the cost was fully refundable it makes little sense for the union to issue the bill only to receive a later refund and then be compelled to issue a refund to "MPC". To undergo these paper machinations would seen an unnecessary triumph of form over substance.

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III. CONCLUSION

The Union respectifully request the Commission to find no probable cause to believe that the International Brotherhood of Boilermakers, Iron Ship Builders,

Blacksmiths, Forgers and Helpers violated to U.S.C. § 441b(a) however if probable cause is found we join in the General Counsel's recommendation that no further action follow.

Respectfully submitted,

Patrick E. White

BLAKE & UHLIG, P.A.
475 New Brotherhood Building
Kansas City, Kansas 66101
(913) 321-8884

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BLAKE & UHLIG, P.A.
ATTORNEYS AT LAW
475 NEW BROTHERHOOD BLDG
KANSAS CITY, KANSAS 66101

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1 PM
23 MAY
1985

MORE WILL LIVE
THE MORE YOU GIVE
HEART FUND

Maura White
Office of the General Counsel
Federal Election Commission
1325 K. Street N.W.
Washington, D.C. 20463

AM 23 AM 10:03

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

EXECUTIVE COUNCIL

LANE KIRKLAND PRESIDENT THOMAS R. DONAHUE SECRETARY-TREASURER

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Murray H. Finley
Sol C. Chaikin
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John DeConcini
Joyce D. Miller
James E. Highfield
Vincent R. Sombrotto
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Edward T. Hanley
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William W. Winpisinger
Wayne E. Glenn
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Barbara Hutchinson
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Patrick J. Campbell
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Angelo Fosco
Thomas T. Hayward
William R. Hynes
Robert P. Gola
Frank Drozak
Richard L. Kilroy
William H. Bywater
Kenneth J. Moore
Lynn R. Williams

85 MAY 29 PM 2:59 FEC

May 28, 1985

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

Re: FEC MUR 1641
Washington State Labor Council

Dear Ms. Emmons:

The purpose of this letter is to supplement the Washington State Labor Council's May 14, 1985 letter brief in the above-referenced matter.

The General Counsel's probable cause brief urges the Commission to find that the Washington State Labor Council violated Section 441b(a) of the Act by permitting the Mondale for President Committee ("Committee") to use the Council's telephones in Everett, Washington without requiring the Committee to pay a portion of the deposit cost of those phones. There is no dispute between the parties on the critical fact relied on by the General Counsel: the Council did not bill the Mondale Committee for any portion of the deposit charge for the Council's telephones in Everett, Washington. However, for the reasons below, the Washington State Labor Council submits that the General Counsel's conclusion that the Council's failure to bill the Committee for that charge constitutes a violation of the Act is a plain misinterpretation and misapplication of the Commission's regulations governing candidate use of labor organization facilities, 11 C.F.R. § 114.9(d).

Section 114.9(d) of the Commission's regulations provides, in relevant part:

> Persons who make any use of . . . labor organization facilities, such as by using telephones . . . for activity in connection with a federal election are required to reimburse the . . . labor organization within a commercially reasonable time in the amount of the normal and usual rental charge . . . for the use of the facilities.

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Thus, the regulation requires a candidate committee to reimburse — not prepay — a labor organization, such as the Council for the committee's use of that organization's telephones within a commercially reasonable period of time.

The Washington State Labor Council submits that the Council has fully complied with the requirements of Section 114.9(d), notwithstanding the fact that the Council's bill to the Mondale Committee did not include a portion of the deposit charges. As stated in the Council's November 1, 1984 letter to the Commission's General Counsel, the Washington State Labor Council paid the deposit charge for its Everett telephones prior to the installation of those phones. And, as the General Counsel's brief acknowledges, that deposit charge was "immediately credited back to the Union" in the first phone bill received by the Council. MUR 1641 General Counsel's brief at 4; see also Washington State Labor Council's letter dated November 1, 1984 to Charles N. Steele.

The Washington State Labor Council's bill to the Mondale for President Committee for a pro-rata share of the costs of the Everett, Washington telephones was based on the Committee's use of those phones for the entire lease period — 29 days over a period of several months. Thus before the period of use ended and therefore before the Council possessed the information necessary to calculate the Committee's share of the deposit charges, those charges had already been fully offset by a credit in the same amount. There were therefore no deposit charges for the Mondale Committee to reimburse. Accordingly, the Washington State Labor Council's failure to bill the Mondale Committee for those charges did not violate the Act.

For the above-stated reasons, as well as for the reasons stated in respondent's May 14, 1985 brief herein, the Commission should find no probable cause to believe that respondent violated the Act.

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for Washington State Labor
Council

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 28, 1985

David Ifshin, General Counsel
Carolyn Oliphant, Deputy Counsel
Mondale for President Committee, Inc.
Suite 318
2233 Wisconsin Avenue, N.W.
Washington, D.C.

RE: MUR 1641
Mondale for President Committee, Inc;
Michael S. Berman, as treasurer;
Walter F. Mondale

Dear Mr. Ifshin and Ms. Oliphant:

This is to advise you that after an investigation was conducted, the Commission concluded on May 21, 1985, that there is no probable cause to believe your clients, Mondale for President Committee, Inc. ("MPC") and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a) with respect to acceptance of an in-kind contribution from the following unions:

1. AFL-CIO
2. Iowa Federation of Labor
3. Alabama Labor Council
4. NEA
5. Clinton Labor Congress
6. Brevard County Central Labor Council
7. Black Hawk Labor Temple Corp.
8. Laborers International Union of North America
9. United Auto Workers, Local 442
10. IBEW, Local 405
11. United Brotherhood of Carpenters and Joiners of America, Local 7
12. Bakery, Confectionary and Tobacco Workers Union, Local 275
13. American Federation of Teachers
14. American Federation of Teachers, Local 2309 (Oklahoma City Federation of Teachers)
15. Massachusetts Federation of Teachers
16. CWA, Local 6010
17. Michigan Education Association-NEA, Local 1 (MEA-NEA)

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18. Massachusetts Teachers Association
19. United Union of Roofers, Waterproofers and Allied Workers, Local 70
20. IBEW, Local 252
21. IBEW, Local 2320
22. United Brotherhood of Carpenters and Joiners of America, Local 678
23. United Brotherhood of Carpenters and Joiners of America, Local 512
24. United Brotherhood of Carpenters and Joiners of America, Local 766
25. Keokuk Labor Fraternal Council
26. UFCW, Local 6P
27. UFCW, Local 47P
28. UFCW, Local 1439
29. UFCW, Local 71
30. UFCW, Local 1169
31. UFCW, Local 31P
32. UFCW, Local 1161
33. UFCW
34. IBEW, Local 292
35. Hotel, Hospital, Restaurant and Tavern Employees Union, Local 21
36. United Steelworkers of America, Local 3539
37. United Steelworkers of America, Local 2944
38. United Paperworkers International Union, Local 61
39. Muskegon County UAW CAP Council
40. Greater Flint AFL-CIO
41. Ohio AFL-CIO
42. AFSCME District Council 37, Local 372
43. United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the U.S. and Canada, Local 190
44. Minneapolis Building and Construction Trades Council
45. Trowel Trades, Local 14 International Union of Bricklayers and Allied Craftsman
46. Hillsborough County Central Labor Council
47. Wisconsin AFL-CIO
48. New Hampshire State Labor Council
49. National Education Association of New Hampshire
50. United Paperworkers International Union, Local 75
51. CWA Local 4305
52. CWA Local 1365

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53. Burlington County Education Association
54. Clark County Classroom Teachers Association
55. Muskogee and Vicinity Central Labor Council

In addition, the Commission found probable cause to believe MPC and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a) by accepting an in-kind contribution from the following labor unions and determined to take no further action:

1. Quad City Federation of Labor
2. Maine AFL-CIO
3. Washington State Labor Council
4. Iowa State Education Association
5. International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers

The Commission also determined to take no further action against MPC and Michael S. Berman, as treasurer, with respect to acceptance of an in-kind contribution from the Alabama Education Association.

As to your client Walter F. Mondale, the Commission determined to find no probable cause to believe Walter F. Mondale violated 2 U.S.C. § 441b(a) by accepting an in-kind contribution from the above 61 labor unions.

Accordingly, the file in this matter has been closed as it pertains to your clients. This matter will become part of the public record within 30 days after it has been closed with respect to all other respondents involved. Should you wish to submit any factual or legal materials to appear on the public record, please do so within 10 days. The Commission reminds you, however, that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed.

If you have any questions, contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 28, 1985

Margaret E. McCormick, Esquire
AFL-CIO Legal Department
815 16th Street, N.W.
Washington, D.C. 20006

RE: MUR 1641
New Hampshire State Labor Council

Dear Ms. McCormick:

This is to advise you that after an investigation was conducted, the Commission concluded on May 21, 1985, that there is no probable cause to believe your client, the New Hampshire State Labor Council, violated 2 U.S.C. § 441b(a). Accordingly the file in this matter, numbered MUR 1641, has been closed as it pertains to your client. This matter will become part of the public record within 30 days after it has been closed with respect to all other respondents involved.

Should you wish to submit any factual or legal materials to appear on the public record, please do so within 10 days. The Commission reminds you, however, that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed.

If you have any questions, contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 28, 1985

Robert H. Chanin, General Counsel
Joy Koletsky, Esquire
National Education Association
1201 16th Street, N.W.
Washington, D.C. 20036

RE: MUR 1641
Iowa State Education Association
NEA-New Hampshire

Dear Mr. Chanin and Ms. Koletsky:

This is to advise you that after an investigation was conducted, the Commisison concluded on May 21, 1985, that there is no probable cause to believe your client, NEA-New Hampshire, violated 2 U.S.C. § 441b(a). The Commission also found that there is probable cause to believe your client, the Iowa State Education Association, violated 2 U.S.C. § 441b(a) and determined to take no further action.

Accordingly, the file in this matter, numbered MUR 1641, has been closed as it pertains to your clients. This matter will become part of the public record within 30 days after it has been closed with respect to all other respondents involved.

Should you wish to submit any factual or legal materials to appear on the public record, please do so within 10 days. The Commission reminds you, however, that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed.

If you have any questions, contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
International Brotherhood of) MUR 1641
Boilermakers, Iron and Ship Builders,)
Blacksmiths, Forgers and Helpers)

RECEIVED
FEDERAL ELECTION COMMISSION
GENERAL COUNSEL
'85 MAY 24 P3:04

UNION'S BRIEF

I. STATEMENT OF THE CASE

The union does not contest essential elements as set forth in the General Counsel's statement of the case. The union wishes to point out to the Commission that although the bank of telephones Wichita were used exclusively by the "MPC" that event was the result of the local Unions' failure to provide people to man the phones and was not planned nor anticipated by the union or "MPC".

II. ARGUMENT

General Counsel has suggested to the Commission that the Unions payment of deposit cost was a prohibited transaction in violation of U.S.C. § 441b(a). The unions submits that this position is unreasonable and renders compliance impossible.

As the Commission knows deposit cost are incurred when an installation is first ordered and is based upon number of telephones and lines to be used. At the time the Union incurred the deposit cost in the two subject installations, the Union expected full refund of the deposit and did not know what the precentage of usage by the Union and the "MPC"

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would be. The Union submits that under these circumstances incurring a refundable deposit cost does not constitute a prohibited contribution.

The General Counsel's office has agreed that the method of billing the installation cost to "MPC", which has now been paid in full by the "MPC", was commerically reasonable. The union submits it would have been reasonable to have billed the deposit cost in May of 1984 however by May of 1984 the deposit cost had been fully refunded and there was no debt due.

General Counsel's perhaps could take the position that the deposit cost should have been billed when incurred, however, as stated above apportioning the cost prior to actual usage was impossible. In as much as the cost was fully refundable it makes little sense for the union to issue the bill only to receive a later refund and then be compelled to issue a refund to "MPC". To undergo these paper machinations would seen an unnecessary triumph of form over substance.

III. CONCLUSION

The Union respectifully request the Commission to find no probable cause to believe that the International Brotherhood of Boilermakers, Iron Ship Builders,

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Blacksmiths, Forgers and Helpers violated to U.S.C. § 441b(a) however if probable cause is found we join in the General Counsel's recommendation that no further action follow.

Respectifully submitted,

Patrick E. White

BLAKE & UHLIG, P.A.
475 New Brotherhood Building
Kansas City, Kansas 66101
(913) 321-8884

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GCC # 7538
White

LAW OFFICES
BLAKE & UHLIG, P.A.
475 NEW BROTHERHOOD BLDG.
EIGHTH AND STATE AVENUE
KANSAS CITY, KANSAS 66101
913/321-8884

JOHN J. BLAKE
RICHARD L. CALCARA
STEVE A. J. BUKATY
JOSEPH W. MORELAND
ROBERT L. DAMERON
THOMAS H. MARSHALL
PATRICK L. DUNN
PATRICK E. WHITE
ELAINE M. EPPRIGHT
MICHAEL T. MANLEY
MICHAEL J. STAPP
WILLIAM S. ROBBINS, JR.
JAMES R. WAERS

ROBERT L. UHLIG (1929-1981)
RICHARD B. THOMPSON (1952-1981)

May 20, 1985

RECEIVED
FEDERAL ELECTION COMMISSION
GENERAL COUNSEL
'85 MAY 21 P12:11

Maura White
Office of the General Counsel
Federal Election Commission
1325 K. Street N.W.
Washington, D.C. 20463

Re: MUR. 1641

Dear Ms. White:

Pursuant to our phone conversation of May 20, 1985 please accept this as the request on behalf of my client the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmith, Forgers and Helpers for an additional seven (7) days to respond to the General Counsel's brief in the above matter.

It is my understanding that there is no particular problem with this request and I will make every effort to respond before Monday, May 27, 1985 if at all possible.

Very cordially yours,

Patrick E. White

PEW/nma

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MC 7530
White

RECEIVED
OFFICE OF THE
GENERAL COUNSEL

LEGAL SERVICES
OFFICE OF GENERAL COUNSEL

NATIONAL EDUCATION ASSOCIATION • 1201 16th St., N.W., Washington, D C 20036 • (202) 822-7035
MARY HATWOOD FUTRELL, President
KEITH GEIGER, Vice President
ROXANNE E. BRADSHAW, Secretary-Treasurer
DON CAMERON, Executive Director

MAY 20 3 37

May 17, 1985

Ms. Marjorie Emmons
Secretary, Federal Election Commission
Washington, D.C. 20463

Re: MUR 1641
Burlington County Education Association; Clark County Classroom Teachers Association; Massachusetts Teachers Association; MEA-NEA Local 1

Dear Ms. Emmons:

On April 26, 1985, Charles N. Steele, General Counsel for the Federal Election Commission, sent us a letter regarding the above MUR, together with copies of four briefs that he intended to submit to the Commission (i.e., In the Matter of Burlington County Education Association ("BCEA"), In the Matter of Clark County Classroom Teachers Association ("CCCTA"), In the Matter of Massachusetts Teachers Association ("MTA"), and In the Matter of MEA-NEA Local 1 ("Local 1").) In his covering letter, the General Counsel invited us to file with you a brief setting forth the position of our clients vis-a-vis the issues and replying to his briefs. Inasmuch as the General Counsel recommends that the Commission find no probable cause to believe that any of our clients violated the Federal Election Campaign Act of 1971, as amended ("Act"), we have chosen not to file a brief at this time. Although, for the reasons set forth in the October 29, 1984 responses submitted by BCEA, CCCTA, MTA and Local 1 we urge the

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Commission to rescind the "reason to believe" findings, adoption of the General Counsel's recommendation would provide an alternative disposition of this MUR that is acceptable to our clients.

Sincerely,

Robert H. Chanin
Attorney for BCEA, CCCTA, MTA
and Local 1

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White

LEGAL SERVICES
OFFICE OF GENERAL COUNSEL

NATIONAL EDUCATION ASSOCIATION • 1201 16th St., N.W., Washington, D C 20036 • (202) 822-7035

MARY HATWOOD FUTRELL, President
KEITH GEIGER, Vice President
ROXANNE E. BRADSHAW, Secretary-Treasurer

DON CAMERON, Executive Director

May 17, 1985

Ms. Marjorie Emmons
Secretary, Federal Election Commission
Washington, D.C. 20463

Re: MUR 1641
Burlington County Education Association; Clark County Classroom Teachers Association; Massachusetts Teachers Association; MEA-NEA Local 1

Dear Ms. Emmons:

On April 26, 1985, Charles N. Steele, General Counsel for the Federal Election Commission, sent us a letter regarding the above MUR, together with copies of four briefs that he intended to submit to the Commission (i.e., In the Matter of Burlington County Education Association ("BCEA"), In the Matter of Clark County Classroom Teachers Association ("CCCTA"), In the Matter of Massachusetts Teachers Association ("MTA"), and In the Matter of MEA-NEA Local 1 ("Local 1").) In his covering letter, the General Counsel invited us to file with you a brief setting forth the position of our clients vis-a-vis the issues and replying to his briefs. Inasmuch as the General Counsel recommends that the Commission find no probable cause to believe that any of our clients violated the Federal Election Campaign Act of 1971, as amended ("Act"), we have chosen not to file a brief at this time. Although, for the reasons set forth in the October 29, 1984 responses submitted by BCEA, CCCTA, MTA and Local 1 we urge the

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Commission to rescind the "reason to believe" findings, adoption of the General Counsel's recommendation would provide an alternative disposition of this MUR that is acceptable to our clients.

Sincerely,

Robert H. Chanin
Attorney for BCEA, CCCTA, MTA
and Local 1

RHC:ew

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
New Hampshire State Labor Council	)	
NEA-New Hampshire	)	MUR 1641
Iowa State Education Association	)	
Walter F. Mondale	)	
Mondale for President Committee	)	
Michael S. Berman, as treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of May 21, 1985, do hereby certify that the Commission decided by a vote of 4-2 to take the following actions in MUR 1641:

A. Find no probable cause to believe the Mondale for President Committee, Inc. and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a) with respect to acceptance of an in-kind contribution from the following labor unions:

1. AFL-CIO
2. Iowa Federation of Labor
3. Alabama Labor Council
4. NEA
5. Clinton Labor Congress
6. Brevard County Central Labor Council
7. Black Hawk Labor Temple Corp.
8. Laborers International Union of North America
9. United Auto Workers, Local 442
10. IBEW, Local 405
11. United Brotherhood of Carpenters and Joiners of America, Local 7

(continued)

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12. Bakery, Confectionary and Tobacco Workers Union, Local 275
13. American Federation of Teachers
14. American Federation of Teachers, Local 2309 (Oklahoma City Federation of Teachers)
15. Massachusetts Federation of Teachers
16. CWA, Local 6010
17. Michigan Education Association-NEA, Local 1 (MEA-NEA)
18. Massachusetts Teachers Association
19. United Union of Roofers, Waterproofers and Allied Workers, Local 70
20. IBEW, Local 252
21. IBEW, Local 2320
22. United Brotherhood of Carpenters and Joiners of America, Local 678
23. United Brotherhood of Carpenters and Joiners of America, Local 512
24. United Brotherhood of Carpenters and Joiners of America, Local 766
25. Keokuk Labor Fraternal Council
26. UFCW, Local 6P
27. UFCW, Local 47P
28. UFCW, Local 1439
29. UFCW, Local 71
30. UFCW, Local 1169
31. UFCW, Local 31P
32. UFCW, Local 1161
33. UFCW
34. IBEW, Local 292
35. Hotel, Hospital, Restaurant and Tavern Employees Union, Local 21
36. United Steelworkers of America, Local 3539
37. United Steelworkers of America, Local 2944
38. United Paperworkers International Union, Local 61
39. Muskegon County UAW CAP Council
40. Greater Flint AFL-CIO
41. Ohio AFL-CIO
42. AFSCME District Council 37, Local 372
43. United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the U.S. and Canada, Local 190

(continued)

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44. Minneaplis Building and Construction Trades Council
45. Trowel Trades, Local 14 International Union of Bricklayers and Allied Craftsmen
46. Hillsborough County Central Labor Council
47. Wisconsin AFL-CIO
48. New Hampshire State Labor Council
49. National Education Association of New Hampshire
50. United Paperwokers International Union, Local 75
51. CWA Local 4305
52. CWA Local 1365
53. Burlington County Education Association
54. Clark County Classroom Teachers Association
55. Muskogee and Vicinity Central Labor Council

B. Find probable cause to believe the Mondale for President Committee, Inc. and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a) by accepting an in-kind contribution from the following labor unions, and take no further action:

1. Quad City Federation of Labor
2. Maine AFL-CIO
3. Washington State Labor Council
4. Iowa State Education Association
5. International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers

C. Take no further action against the Mondale for President Committee, Inc. and Michael S. Berman, as treasurer, with respect to acceptance of an in-kind contribution from the Alabama Education Association.

(continued)

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D. Find no probable cause to believe Walter F. Mondale violated 2 U.S.C. § 441b(a) by accepting an in-kind contribution from the 61 labor organizations enumerated in A, B, and C, above, and close the file as it pertains to Walter F. Mondale.

E. Close the file with respect to the Mondale for President Committee, Inc. and Michael S. Berman, as treasurer.

F. Find no probable cause to believe the New Hampshire State Labor Council violated 2 U.S.C. § 441b(a), and close the file with respect to the New Hampshire State Labor Council.

G. Find no probable cause to believe NEA-New Hampshire violated 2 U.S.C. § 441b(a), and close the file with respect to NEA-New Hampshire.

(continued)

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H. Find probable cause to believe the Iowa State Education Association violated 2 U.S.C. § 441b(a) and take no further action. Close the file with respect to the Iowa State Education Association.

I. Approve the letters attached to the General Counsel's report dated May 13, 1985.

Commissioners Harris, McDonald, McGarry, and Reiche voted affirmatively for the decision; Commissioners Aikens and Elliott dissented.

Attest:

5-21-85
Date

Marjorie W Emmons
Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary

FROM: Office of General Counsel

DATE: May 17, 1985

SUBJECT: MUR 1641 - General Counsel's Report

The attached is submitted as an Agenda document for the Commission Meeting of May 21, 1985

Open Session

Closed Session XX

CIRCULATIONS		DISTRIBUTION	
48 Hour Tally Vote	[ ]	Compliance	[XX]
Sensitive	[ ]		
Non-Sensitive	[ ]	Audit Matters	[ ]
24 Hour No Objection	[ ]	Litigation	[ ]
Sensitive	[ ]		
Non-Sensitive	[ ]	Closed MUR Letters	[ ]
Information	[ ]	Status Sheets	[ ]
Sensitive	[ ]		
Non-Sensitive	[ ]	Advisory Opinions	[ ]
Other	[X]	Other (see distribution below)	[ ]

SENSITIVE

CIRCULATE ON BLUE PAPER

FOR AGENDA OF May 21, 1985

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SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY

In the Matter of)
)
New Hampshire State Labor Council;)
NEA-New Hampshire; Iowa)
State Education Association;) MUR 1641
Walter F. Mondale; Mondale for)
President Committee;)
Michael S. Berman, as treasurer)

'85 MAY 13 AM 11:39

EXECUTIVE SESSION

MAY 21 1985

GENERAL COUNSEL'S REPORT

I. Background

On June 12, 1984, the Commission determined that there is reason to believe Walter F. Mondale, the Mondale for President Committee, Inc. ("MPC"), and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a) by accepting a portion of telephone installation and deposit costs from eight labor organizations whose telephones MPC allegedly utilized. On September 18, 1984, the Commission further determined that Walter F. Mondale, MPC, and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a) by accepting a portion of telephone installation and deposit costs from an additional 53 labor organizations whose telephones MPC allegedly utilized. On September 18, 1984, the Commission also determined that the New Hampshire State Labor Council, the Iowa State Education Association ("ISEA"), and the National Education Association of New Hampshire ("NEA-New Hampshire") violated 2 U.S.C. § 441b(a) by incurring a portion of telephone installation and deposit costs on behalf of MPC.

On March 25, 1985, General Counsel's Briefs were mailed to: Walter F. Mondale, MPC, and Michael S. Berman, as treasurer; the New Hampshire State Labor Council; ISEA; and, NEA-New Hampshire.

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Subsequently, counsel for the New Hampshire State Labor Council informed staff of this office by telephone that the union would not submit a response to the General Counsel's Brief. On April 15, 1985, ISEA and NEA-New Hampshire responded to the General Counsel's Briefs. The response of Walter F. Mondale, MPC, and Michael S. Berman, as treasurer, to the General Counsel's Brief was submitted on April 17, 1985.

II. Legal Analysis

a. New Hampshire State Labor Council

As stated above, the New Hampshire State Labor Council did not respond to the General Counsel's Brief. Hence, the legal analysis in this matter remains the same. See the General Counsel's Brief to the New Hampshire State Labor Council.

b. NEA-New Hampshire

The General Counsel's Brief to NEA-New Hampshire recommended a finding of no probable cause to believe a violation of 2 U.S.C. § 441b(a) occurred. NEA-New Hampshire responded to this brief by stating that "we urge the Commission to adopt the General Counsel's recommendation." See the General Counsel's Brief to NEA-New Hampshire.

c. ISEA

The General Counsel's Brief to ISEA recommended that the Commission find probable cause to believe a violation of 2 U.S.C. § 441b(a) occurred and take no further action. It is essentially the position of ISEA that it did not violate § 441b(a), but it urges the Commission to take no further action if it is determined that a violation occurred.

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The central theme of ISEA's argument that no violation occurred is that "there is nothing in the record to indicate that the telephones in question were 'installed for the partial benefit of MPC'," and that there is no evidence of any alteration in its determinations concerning arrangement or timing of the telephones' installation. ISEA, however, has admitted that it did have a discussion with MPC before the telephones were installed which specifically concerned MPC's use of ISEA telephones. The existence of this discussion, prior to confirmed arrangements with the telephone company, invalidates ISEA's claim that the telephones were not installed for the partial benefit of MPC because ISEA was aware prior to installation that the telephones would also be utilized by MPC. Thus, it remains the recommendation of this office that the Commission find probable cause to believe ISEA violated 2 U.S.C. § 441b(a) and take no further action.

d. MPC, Michael S. Berman, as treasurer, and Walter F. Mondale

While concurring with the General Counsel's recommendation that there is no probable cause to believe MPC violated 2 U.S.C. § 441b(a) with respect to acceptance of telephone deposit and installation costs from 54 labor unions, MPC takes issue with the General Counsel's recommendation that there is probable cause to believe MPC violated 2 U.S.C. § 441b(a) with respect to six labor unions. In addition, MPC argues that the Commission should determine that there is no probable cause to believe Walter F.

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Mondale violated 2 U.S.C. § 441b(a) with respect to all of the labor unions involved herein or in the alternative rescind its reason to believe findings. MPC's arguments will be discussed in turn below.

The initial argument presented by MPC is that there is no basis for requiring a political committee to pay a portion of telephone deposit or installation costs to a union in situations where, prior to the installation, MPC discussed with the union its desire to use the telephones after they were installed. MPC argues that the regulations require only that the "usual and normal charge" be paid by a political committee to a union whose telephones it utilized, and that the fair market value "varies according to changes in the market place but does not vary on the basis of 'prior discussions' between the two entities."

Although the regulations do address payment of the normal and usual charge when union facilities are utilized, it is an established rule of administrative law that agencies may interpret their own regulations, and that such interpretations are controlling unless "plainly erroneous or inconsistent with the regulation." Sutherland, Statutes and Statutory Construction, § 31.06, quoting Immigration and Naturalization Service v. Stanisic, 395 U.S. 92 (1969). In the instant matter this office's position that a political committee is required to pay a portion of installation and deposit costs to a union when the telephones are installed after MPC expresses to the union its desire to use union telephones, but that such costs need not be

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paid by the political committee where pre-existing union telephones are involved, reflects the only logical interpretation of the Commission's regulations.

As discussed in the General Counsel's Brief, where pre-existing phones are used there are no costs to the union for installation or deposits connected with MPC's use and, therefore, no portion of these costs can reasonably be attributed to the political committee involved.[1]/ Moreover, in such situations it cannot be argued that the telephones were installed for the partial benefit of the political committee. However, where the telephones are installed subsequent to discussion with MPC, such telephones must be considered to have been installed for the partial benefit of MPC, and not solely for the union's own purposes. MPC, in claiming that there is no evidence that the phones were installed for other than the unions' own purposes, ignores the fact that the phones were installed subsequent to the unions' knowledge that MPC desired the use of such phones. Because the telephones were installed to partially benefit MPC,

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1/ It is reasonable not to require a union to charge a political committee for installation and deposit costs when the union does not incur such costs in connection with the committee's use of the union's pre-existing telephones. When such costs are not incurred by a union the committee's payment to a union for present day costs would be difficult to determine accurately and would result in a "profit" to the union because the union would receive reimbursement for costs it did not incur. Moreover, if the union amortized the cost of installation or deposits it paid when the phones were originally installed the resulting amount attributable to the political committee would be nonexistent in most situations and de minimis in the others.

in comparison with pre-existing telephones, it is reasonable to attribute the defined recent costs to MPC based upon use. Finally, MPC unsuccessfully attempts to buttress its argument by claiming that the General Counsel's Brief "establishes an unwarranted and unsupported presumption that MPC's expression of possible interest in leasing phones 'may have influenced' the decision to activate them." MPC misstates the General Counsel's suggestion that the needs of MPC "may have influenced the arrangement for the installation or activation of the telephones, as well as the timing of the installation or activation." Significantly, MPC only denies that its needs influenced the union to "activate" the telephones, but does not specifically deny the effect of its needs upon arrangement or timing. Indeed, in arguing that it was to the unions possible benefit to lease telephones to MPC because the unions could recoup monthly service charges MPC even concedes that its expressed interest in using the telephones may have influenced the unions' decisions to activate them.

A second argument raised by MPC is that no violation occurred because it paid installation costs to the unions involved in the probable cause to believe recommendation against MPC. Such an argument is totally without merit in the view of this office. MPC mistakenly argues that as long as it paid the usual and normal rental charge to the unions no violation can be considered to have occurred regardless of the date of the unions' respective billings. MPC contends, therefore, that it is irrelevant whether the unions billed MPC on their own initiative

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for deposit and installation costs in that there is no basis in the statute or regulation for such a standard.

Although it may be true that the regulations do not hinge a violation upon the impetus for billings, the regulations do require billings to occur within a commercially reasonable time. In situations where billings are required to occur by entities which do not routinely bill for services rendered it is often difficult to define a commercially reasonable time. For this reason when the Commission's investigation focuses upon recent or ongoing activity it is necessary to look at whether the billing occurred solely as a result of the Commission's findings.

The evidence in this matter indicates that the billings should be considered mitigating factors only. MPC stated as late as August 1984 that it did not agree to pay installation and deposit costs. Moreover, the record in this matter demonstrates that more than six months elapsed between the time MPC last used the phones of three of the unions and the date of the Commission's September 18, 1984, reason to believe finding. In addition, ISEA (see supra) appears only to have billed MPC for a portion of installation costs after it was named as a respondent in the March 6, 1984, complaint. Indeed, in response to the complaint ISEA did not claim that it billed MPC for a portion of installation costs. In view of the foregoing, it remains the position of this office that the Commission find probable cause to believe MPC and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a) with respect to acceptance of an in-kind contribution from six labor unions, and take no further action.

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With respect to Walter F. Mondale, counsel argues that the recommendation to find probable cause to believe is procedurally defective because the Commission's notification letter dated July 3, 1984, failed to state that the Commission found reason to believe on June 12, 1984, that Walter F. Mondale violated 2 U.S.C. § 441b(a).2/ Counsel further argues that there is no factual or legal basis for a finding against the candidate. Counsel cites MURs 1776 and 1777 as examples of enforcement actions involving findings against MPC and Michael S. Berman, as treasurer, but not against Walter F. Mondale despite the complainant's allegations against Mr. Mondale. Because the investigation in this matter has produced no evidence of any wrongdoing by the candidate personally, it is the recommendation of this office that the Commission find no probable cause to believe Walter F. Mondale accepted an in-kind contribution from the 61 labor unions involved herein.

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2/ Counsel's argument pertains to the Commission's June 12, 1984, finding against Walter Mondale, but not its September 18, 1984, finding against Walter Mondale. The notification letter dated July 3, 1984, stated that on June 12, 1984, the Commission found reason to believe MPC and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a). A later letter sent September 25, 1984 indicated that reason to believe had been found with regard to Walter Mondale on June 12, 1984. Counsel argues, however, that the notice provided in the September 25, 1985, letter concerning the June 12, 1984, finding against Walter Mondale is inadequate because of factual and legal basis for the June 12, 1984, finding was not set forth in the letter.

III. General Counsel's Recommendations

A. Find no probable cause to believe the Mondale for President Committee, Inc. and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a) with respect to acceptance of an in-kind contribution from the following labor unions:

1. AFL-CIO
2. Iowa Federation of Labor
3. Alabama Labor Council
4. NEA
5. Clinton Labor Congress
6. Brevard County Central Labor Council
7. Black Hawk Labor Temple Corp.
8. Laborers International Union of North America
9. United Auto Workers, Local 442
10. IBEW, Local 405
11. United Brotherhood of Carpenters and Joiners of America, Local 7
12. Bakery, Confectionary and Tobacco Workers Union, Local 275
13. American Federation of Teachers
14. American Federation of Teachers, Local 2309 (Oklahoma City Federation of Teachers)
15. Massachusetts Federation of Teachers
16. CWA, Local 6010
17. Michigan Education Association-NEA, Local 1 (MEA-NEA)
18. Massachusetts Teachers Association
19. United Union of Roofers, Waterproofers and Allied Workers, Local 70
20. IBEW, Local 252
21. IBEW, Local 2320
22. United Brotherhood of Carpenters and Joiners of America, Local 678
23. United Brotherhood of Carpenters and Joiners of America, Local 512
24. United Brotherhood of Carpenters and Joiners of America, Local 766
25. Keokuk Labor Fraternal Council
26. UFCW, Local 6P
27. UFCW, Local 47P
28. UFCW, Local 1439
29. UFCW, Local 71
30. UFCW, Local 1169
31. UFCW, Local 31P
32. UFCW, Local 1161

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33. UFCW
34. IBEW, Local 292
35. Hotel, Hospital, Restaurant and Tavern Employees Union, Local 21
36. United Steelworkers of America, Local 3539
37. United Steelworkers of America, Local 2944
38. United Paperworkers International Union, Local 61
39. Muskegon County UAW CAP Council
40. Greater Flint AFL-CIO
41. Ohio AFL-CIO
42. AFSCME District Council 37, Local 372
43. United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the U.S. and Canada, Local 190
44. Minneapolis Building and Construction Trades Council
45. Trowel Trades, Local 14 International Union of Bricklayers and Allied Craftsman
46. Hillsborough County Central Labor Council
47. Wisconsin AFL-CIO
48. New Hampshire State Labor Council
49. National Education Association of New Hampshire
50. United Paperworkers International Union, Local 75
51. CWA Local 4305
52. CWA Local 1365
53. Burlington County Education Association
54. Clark County Classroom Teachers Association

B. Find probable cause to believe the Mondale for President Committee, Inc. and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a) by accepting an in-kind contribution from the following labor unions, and take no further action:

1. Quad City Federation of Labor
2. Muskogee and Vicinity Central Labor Council
3. Maine AFL-CIO
4. Washington State Labor Council
5. Iowa State Education Association
6. International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers

C. Take no further action against the Mondale for President Committee, Inc. and Michael S. Berman, as treasurer, with

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respect to acceptance of an in-kind contribution from the Alabama Education Association.

D. Find no probable cause to believe Walter F. Mondale violated 2 U.S.C. § 441b(a) by accepting an in-kind contribution from the 61 labor organizations enumerated in recommendations A, B, and C, above, and close the file as it pertains to Walter F. Mondale.

E. Close the file with respect to the Mondale for President Committee, Inc. and Michael S. Berman, as treasurer.

F. Find no probable cause to believe the New Hampshire State Labor Council violated 2 U.S.C. § 441b(a), and close the file with respect to the New Hampshire State Labor Council.

G. Find no probable cause to believe NEA-New Hampshire violated 2 U.S.C. § 441b(a), and close the file with respect to NEA-New Hampshire.

H. Find probable cause to believe the Iowa State Education Association violated 2 U.S.C. § 441b(a) and take no further action. Close the file with respect to the Iowa State Education Association.

I. Approve the attached letters.

13 May 1985
Date

Charles N. Steele
General Counsel

Attachment
Letters (3)

8504054018

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Robert H. Chanin, General Counsel
Joy Koletsky, Esquire
National Education Association
1201 16th Street, N.W.
Washington, D.C. 20036

RE: MUR 1641
Iowa State Education Association
NEA-New Hampshire

8504054019

Dear Mr. Chanin and Ms. Koletsky:

This is to advise you that after an investigation was conducted, the Commisison concluded on , 1985, that there is no probable cause to believe your client, NEA-New Hampshire, violated 2 U.S.C. § 441b(a). The Commission also found that there is probable cause to believe your client, the Iowa State Education Association, violated 2 U.S.C. § 441b(a) and determined to take no further action.

Accordingly, the file in this matter, numbered MUR 1641, has been closed as it pertains to your clients. This matter will become part of the public record within 30 days after it has been closed with respect to all other respondents involved.

Should you wish to submit any factual or legal materials to appear on the public record, please do so within 10 days. The Commission reminds you, however, that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed.

If you have any questions, contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Attachment 1 (1)

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

David Ifshin, General Counsel
Carolyn Oliphant, Deputy Counsel
Mondale for President Committee, Inc.
Suite 318
2233 Wisconsin Avenue, N.W.
Washington, D.C.

RE: MUR 1641
Mondale for President Committee, Inc;
Michael S. Berman, as treasurer;
Walter F. Mondale

Dear Mr. Ifshin and Ms. Oliphant:

This is to advise you that after an investigation was conducted, the Commission concluded on , 1985, that there is no probable cause to believe your clients, Mondale for President Committee, Inc. ("MPC") and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a) with respect to acceptance of an in-kind contribution from the following unions:

1. AFL-CIO
2. Iowa Federation of Labor
3. Alabama Labor Council
4. NEA
5. Clinton Labor Congress
6. Brevard County Central Labor Council
7. Black Hawk Labor Temple Corp.
8. Laborers International Union of North America
9. United Auto Workers, Local 442
10. IBEW, Local 405
11. United Brotherhood of Carpenters and Joiners of America, Local 7
12. Bakery, Confectionary and Tobacco Workers Union, Local 275
13. American Federation of Teachers
14. American Federation of Teachers, Local 2309 (Oklahoma City Federation of Teachers)
15. Massachusetts Federation of Teachers
16. CWA, Local 6010
17. Michigan Education Association-NEA, Local 1 (MEA-NEA)

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18. Massachusetts Teachers Association
19. United Union of Roofers, Waterproofers and Allied Workers, Local 70
20. IBEW, Local 252
21. IBEW, Local 2320
22. United Brotherhood of Carpenters and Joiners of America, Local 678
23. United Brotherhood of Carpenters and Joiners of America, Local 512
24. United Brotherhood of Carpenters and Joiners of America, Local 766
25. Keokuk Labor Fraternal Council
26. UFCW, Local 6P
27. UFCW, Local 47P
28. UFCW, Local 1439
29. UFCW, Local 71
30. UFCW, Local 1169
31. UFCW, Local 31P
32. UFCW, Local 1161
33. UFCW
34. IBEW, Local 292
35. Hotel, Hospital, Restaurant and Tavern Employees Union, Local 21
36. United Steelworkers of America, Local 3539
37. United Steelworkers of America, Local 2944
38. United Paperworkers International Union, Local 61
39. Muskegon County UAW CAP Council
40. Greater Flint AFL-CIO
41. Ohio AFL-CIO
42. AFSCME District Council 37, Local 372
43. United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the U.S. and Canada, Local 190
44. Minneapolis Building and Construction Trades Council
45. Trowel Trades, Local 14 International Union of Bricklayers and Allied Craftsman
46. Hillsborough County Central Labor Council
47. Wisconsin AFL-CIO
48. New Hampshire State Labor Council
49. National Education Association of New Hampshire
50. United Paperworkers International Union, Local 75
51. CWA Local 4305
52. CWA Local 1365
53. Burlington County Education Association
54. Clark County Classroom Teachers Association

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In addition, the Commission found probable cause to believe MPC and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a) by accepting an in-kind contribution from the following labor unions and determined to take no further action:

1. Quad City Federation of Labor
2. Muskogee and Vicinity Central Labor Council
3. Maine AFL-CIO
4. Washington State Labor Council
5. Iowa State Education Association
6. International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers

The Commission also determined to take no further action against the MPC and Michael S. Berman, as treasurer, with respect to acceptance of an in-kind contribution from the Alabama Education Association.

As to your client Walter F. Mondale, the Commission determined to find no probable cause to believe Walter F. Mondale violated 2 U.S.C. § 441b(a) by accepting an in-kind contribution from the above 61 labor unions.

Accordingly, the file in this matter has been closed as it pertains to your clients. This matter will become part of the public record within 30 days after it has been closed with respect to all other respondents involved. Should you wish to submit any factual or legal materials to appear on the public record, please do so within 10 days. The Commission reminds you, however, that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed.

If you have any questions, contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Margaret E. McCormick, Esquire
AFL-CIO Legal Department
815 16th Street, N.W.
Washington, D.C. 20006

RE: MUR 1641
New Hampshire State Labor Council

Dear Ms. McCormick:

This is to advise you that after an investigation was conducted, the Commission concluded on , 1985, that there is no probable cause to believe your client, the New Hampshire State Labor Council, violated 2 U.S.C. § 441b(a). Accordingly the file in this matter, numbered MUR 1641, has been closed as it pertains to your client. This matter will become part of the public record within 30 days after it has been closed with respect to all other respondents involved.

Should you wish to submit any factual or legal materials to appear on the public record, please do so within 10 days. The Commission reminds you, however, that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed.

If you have any questions, contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

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American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

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May 14, 1985

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Ms. Marjorie W. Emmons
Secretary
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

RE: FEC MUR 1641
Hillsborough County Central
Labor Council, AFL-CIO

Dear Ms. Emmons:

This letter brief constitutes the response of the Hillsborough County Central Labor Council, AFL-CIO (herein "respondent") to the General Counsel's letter and brief dated April 26, 1985, recommending that the Commission find no probable cause to believe that the respondent violated 2 U.S.C. § 441b(a) of the Federal Election Campaign Act of 1971, as amended ("the Act").

For the reasons set forth in the Hillsborough County Central Labor Council's October 30, 1984 letter to the Commission's General Counsel, Charles N. Steele, and in the General Counsel's April 26, 1985 brief herein, the Hillsborough County Central Labor Council respectfully requests that the Commission adopt the General Counsel's recommendation that the Commission find no probable cause to believe that the organization has violated the Act.

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for Hillsborough County
Central Labor Council, AFL-CIO

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

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May 14, 1985

Ms. Marjorie W. Emmons
Secretary
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

RE: FEC MUR 1641
Muskogee and Vicinity Central Labor Council, AFL-CIO

Dear Ms. Emmons:

This letter brief constitutes the response of the Muskogee and Vicinity Central Labor Council, AFL-CIO (herein "respondent") to the General Counsel's letter and brief dated April 26, 1985, recommending that the Commission find probable cause to believe that respondent violated 2 U.S.C. § 441b(a) of the Federal Election Campaign Act of 1971, as amended ("the Act").

The General Counsel's probable cause recommendation is premised on the absence of "any evidence in the record that the Union billed for these [installation] costs on its own initiative prior to the Commission's finding of reason to believe a violation occurred." General Counsel's Brief, MUR 1641, at 3. In fact, respondent billed the Mondale for President Committee for the Committee's pro-rata share of the costs of the charges, including installation costs, for the telephones used by the Committee on June 28, 1984 nearly three months prior to the date of the Commission's reason to believe determination which occured on September 18, 1984. Accordingly, the Commission should find no probable cause to believe that respondent violated the Act and should take no further action against respondent.

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for Respondent

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Central Labor Union

A. F. L. & C. I. O.
MUSKOGEE, OKLAHOMA

OFFICE OF THE
SECRETARY-TREASURER
100 N.York St.
Muskogee, OK-74403

June 28, 1984

Ms. Christine Brewer
Finance Division
Mondale for President Committee
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007

Dear Ms. Brewer:

Attached is our invoice for the Mondale for President Committee's share of the telephone charges for the phones used by the Committee in Muskogee, Oklahoma.

Please make the check payable to the "Muskogee and Vicinity Central Labor Council, AFL-CIO" and send it to the above address.

Prompt payment would be appreciated.

Sincerely,

Roy L. Hawkins, President
Muskogee & Vicinity Central Labor Council

RLH:rt

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American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

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Kenneth J. Brown
Lynn R. Williams

May 14, 1985

Ms. Marjorie W. Emmons
Secretary
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

RE: FEC MUR 1641
Maine AFL-CIO

Dear Ms. Emmons:

This letter brief constitutes the response of the Maine AFL-CIO (herein "respondents") to the General Counsel's letter and brief dated April 26, 1985, recommending that the Commission find probable cause to believe that respondent violated 2 U.S.C. § 441b(a) of the Federal Election Campaign Act of 1971, as amended ("the Act") and take no further action.

For the following reasons, the Maine AFL-CIO respectfully requests that the Federal Election Commission reject the General Counsel's probable cause recommendation and instead find no probable cause to believe that the organization violated 2 U.S.C. § 441b(a):

1) The General Counsel's probable cause recommendation is premised on the fact that respondent did not bill the Mondale for President Committee for a pro-rata share of the installation costs of the telephones used by the Committee until after the Commission determined that there was reason to believe that respondent may have violated the Act. As set forth in greater detail in respondent's November 1, 1984 reply to the Commission's September 18, 1984 reason to believe determination against respondent, it is respondent's position that the Commission's reason to believe determination in this matter is invalid and should be rescinded since in making that determination without first affording respondent an opportunity to demonstrate why no such action should be taken, the Commission violated Section 437g(a) of the Act and Section 111.6 of its regulations.

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Since the Commission's reason to believe determination against repondent is invalid, the fact that respondent did not bill the Mondale campaign for installation costs until after the date of that determination has no legal significance. What is significant, respondent submits, is that the Maine AFL-CIO voluntarily elected to bill the Mondale for President Committee for a pro-rata share of the installation charges for the telephones used by the Committee and that the Committee has paid that bill. Accordingly, the Commission should find no probable cause to believe that respondent has violated the Act.

2) The General Counsel's probable cause recommendation is based on a novel and erroneous interpretation of the requirements of 11 C.F.R. § 114.9(d), to wit, that the "normal and usual rental charge" which a labor organization is required to bill a candidate committee for its use of the organization's telephones must include a pro-rata share of the telephones' installation charges in the event that the phones used are not existing business telephones and are installed subsequent to a discussion between the labor organization and the campaign. Nothing in the Commission's regulations at 11 C.F.R. § 114.9(d) or in the Commission's previous interpretations of those regulations, Advisory Opinion 1978-34 and Opinion of Counsel 1976-30, suggests such a rule. To the contrary, the Commission regulations and those opinions suggest just the opposite — that the installation costs need not be included in the "normal and usual rental charge" for telephones.

Notwithstanding respondent's disagreement with the General Counsel's novel interpretation of 11 C.F.R. Section 114.9(d), respondent has already voluntarily billed the Mondale for President Committee for its share of the installation costs of the telephones used by the Committee. Accordingly, even under the interpretation of 11 C.F.R. § 114.9(d) urged by the General Counsel, respondent has committed no violation of the Act or at most has committed a "violation" of a new and highly technical requirement which should be enforced prospectively after clear Commission action and not retroactively.

For the above-stated reasons, the Maine AFL-CIO requests that the Commission find no probable cause to believe that the organization violated 2 U.S.C. § 441b(a). Should the Commission, notwithstanding the foregoing, adopt the General Counsel's recommendation to find probable cause to believe that the Maine AFL-CIO violated the Act, for the reasons set forth in the General Counsel's brief, respondent urges the Commission to take no further action against respondent.

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for Maine AFL-CIO

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American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

EXECUTIVE COUNCIL

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Kenneth J. Brown
Lynn R. Williams

May 14, 1985

Ms. Marjorie W. Emmons
Secretary
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

RE: FEC MUR 1641
Quad City Federation of Labor,
AFL-CIO

Dear Ms. Emmons:

This letter brief constitutes the response of the Quad City Federation of Labor, AFL-CIO (herein "respondents") to the General Counsel's letter and brief dated April 26, 1985, recommending that the Commission find probable cause to believe that respondent violated 2 U.S.C. § 441b(a) of the Federal Election Campaign Act of 1971, as amended ("the Act") and take no further action.

For the following reasons, the Quad City Federation of Labor, AFL-CIO respectfully requests that the Federal Election Commission reject the General Counsel's probable cause recommendation and instead find no probable cause to believe that the organization violated 2 U.S.C. § 441b(a):

1) The General Counsel's probable cause recommendation is premised on the fact that respondent did not bill the Mondale for President Committee for a pro-rata share of the installation costs of the telephones used by the Committee until after the Commission determined that there was reason to believe that respondent may have violated the Act. As set forth in greater detail in respondent's November 1, 1984 reply to the Commission's September 18, 1984 reason to believe determination against respondent, it is respondent's position that the Commission's reason to believe determination in this matter is invalid and should be rescinded since in making that determination without first affording respondent an opportunity to demonstrate why no such action should be taken, the Commission violated Section 437g(a) of the Act and Section 111.6 of its regulations.

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Since the Commission's reason to believe determination against repondent is invalid, the fact that respondent did not bill the Mondale campaign for installation costs until after the date of that determination has no legal significance. What is significant, respondent submits, is that the Quad City Federation of Labor, AFL-CIO voluntarily elected to bill the Mondale for President Committee for a pro-rata share of the installation charges for the telephones used by the Committee and that the Committee has paid that bill. Accordingly, the Commission should find no probable cause to believe that respondent has violated the Act.

2) The General Counsel's probable cause recommendation is based on a novel and erroneous interpretation of the requirements of 11 C.F.R. § 114.9(d), to wit, that the "normal and usual rental charge" which a labor organization is required to bill a candidate committee for its use of the organization's telephones must include a pro-rata share of the telephones' installation charges in the event that the phones used are not existing business telephones and are installed subsequent to a discussion between the labor organization and the campaign. Nothing in the Commission's regulations at 11 C.F.R. § 114.9(d) or in the Commission's previous interpretations of those regulations, Advisory Opinion 1978-34 and Opinion of Counsel 1976-30, suggests such a rule. To the contrary, the Commission regulations and those opinions suggest just the opposite — that the installation costs need not be included in the "normal and usual rental charge" for telephones.

Notwithstanding respondent's disagreement with the General Counsel's novel interpretation of 11 C.F.R. Section 114.9(d), respondent has already voluntarily billed the Mondale for President Committee for its share of the installation costs of the telephones used by the Committee. Accordingly, even under the interpretation of 11 C.F.R. § 114.9(d) urged by the General Counsel, respondent has committed no violation of the Act or at most has committed a "violation" of a new and highly technical requirement which should be enforced prospectively after clear Commission action and not retroactively.

For the above-stated reasons, the Quad City Federation of Labor, AFL-CIO requests that the Commission find no probable cause to believe that the organization violated 2 U.S.C. § 441b(a). Should the Commission, notwithstanding the foregoing, adopt the General Counsel's recommendation to find probable cause to believe that the Quad City Federation of Labor AFL-CIO violated the Act, for the reasons set forth in the General Counsel's brief, respondent urges the Commission to take no further action against respondent.

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for Quad City Federation of
Labor, AFL-CIO

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American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
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May 14, 1985

Ms. Marjorie W. Emmons
Secretary
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

RE: FEC MUR 1641
Washington State Labor Council, AFL-CIO

Dear Ms. Emmons:

This letter brief constitutes the response of the Washington State Labor Council, AFL-CIO (herein "respondents") to the General Counsel's letter and brief dated April 26, 1985, recommending that the Commission find probable cause to believe that respondent violated 2 U.S.C. § 441b(a) of the Federal Election Campaign Act of 1971, as amended ("the Act") and take no further action.

For the following reasons, the Washington State Labor Council, AFL-CIO respectfully requests that the Federal Election Commission reject the General Counsel's probable cause recommendation and instead find no probable cause to believe that the organization violated 2 U.S.C. § 441b(a):

1) The General Counsel's probable cause recommendation is premised on the fact that respondent did not bill the Mondale for President Committee for a pro-rata share of the installation costs of the telephones used by the Committee until after the Commission determined that there was reason to believe that respondent may have violated the Act. As set forth in greater detail in respondent's November 1, 1984 reply to the Commission's September 18, 1984 reason to believe determination against respondent, it is respondent's position that the Commission's reason to believe determination in this matter is invalid and should be rescinded since in making that determination without first affording respondent an opportunity to demonstrate why no such action should be taken, the Commission violated Section 437g(a) of the Act and Section 111.6 of its regulations.

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Since the Commission's reason to believe determination against repondent is invalid, the fact that respondent did not bill the Mondale campaign for installation costs until after the date of that determination has no legal significance. What is significant, respondent submits, is that the Washington State Labor Council, AFL-CIO voluntarily elected to bill the Mondale for President Committee for a pro-rata share of the installation charges for the telephones used by the Committee and that the Committee has paid that bill. Accordingly, the Commission should find no probable cause to believe that respondent has violated the Act.

2) The General Counsel's probable cause recommendation is based on a novel and erroneous interpretation of the requirements of 11 C.F.R. § 114.9(d), to wit, that the "normal and usual rental charge" which a labor organization is required to bill a candidate committee for its use of the organization's telephones must include a pro-rata share of the telephones' installation charges in the event that the phones used are not existing business telephones and are installed subsequent to a discussion between the labor organization and the campaign. Nothing in the Commission's regulations at 11 C.F.R. § 114.9(d) or in the Commission's previous interpretations of those regulations, Advisory Opinion 1978-34 and Opinion of Counsel 1976-30, suggests such a rule. To the contrary, the Commission regulations and those opinions suggest just the opposite — that the installation costs need not be included in the "normal and usual rental charge" for telephones.

Notwithstanding respondent's disagreement with the General Counsel's novel interpretation of 11 C.F.R. Section 114.9(d), respondent has already voluntarily billed the Mondale for President Committee for its share of the installation costs of the telephones used by the Committee. Accordingly, even under the interpretation of 11 C.F.R. § 114.9(d) urged by the General Counsel, respondent has committed no violation of the Act or at most has committed a "violation" of a new and highly technical requirement which should be enforced prospectively after clear Commission action and not retroactively.

For the above-stated reasons, the Washington State Labor Council, AFL-CIO requests that the Commission find no probable cause to believe that the organization violated 2 U.S.C. § 441b(a). Should the Commission, notwithstanding the foregoing, adopt the General Counsel's recommendation to find probable cause to believe that the Washington State Labor Council, AFL-CIO violated the Act, for the reasons set forth in the General Counsel's brief, respondent urges the Commission to take no further action against respondent.

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for Washington State Labor
Council, AFL-CIO

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American Federation of Labor and Congress of Industrial Organizations

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May 14, 1985

Ms. Marjorie W. Emmons
Secretary
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

RE: FEC MUR 1641
Wisconsin State AFL-CIO

Dear Ms. Emmons:

This letter brief constitutes the response of the Wisconsin State AFL-CIO, (herein "respondent") to the General Counsel's letter and brief dated April 26, 1985, recommending that the Commission find no probable cause to believe that the respondent violated 2 U.S.C. § 441b(a) of the Federal Election Campaign Act of 1971, as amended ("the Act").

For the reasons set forth in the Wisconsin State AFL-CIO's October 29, 1984 letter to the Commission's General Counsel, Charles N. Steele, and in the General Counsel's April 26, 1985 brief herein, respondent Wisconsin State AFL-CIO respectfully requests that the Commission adopt the General Counsel's recommendation that the Commission find no probable cause to believe that the organization has violated the Act.

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for Wisconsin AFL-CIO

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May 14, 1985

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Ms. Marjorie W. Emmons
Secretary
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

RE: FEC MUR 1641
Ohio AFL-CIO

Dear Ms. Emmons:

This letter brief constitutes the response of the Ohio AFL-CIO, (herein "respondent") to the General Counsel's letter and brief dated April 26, 1985, recommending that the Commission find no probable cause to believe that the respondent violated 2 U.S.C. § 44 lb(a) of the Federal Election Campaign Act of 1971, as amended ("the Act").

For the reasons set forth in the Ohio AFL-CIO's November 1, 1984 letter to the Commission's General Counsel, Charles N. Steele, and in the General Counsel's April 26, 1985 brief herein, the Ohio AFL-CIO respectfully requests the Commission to adopt the General Counsel's recommendation that the Commission find no probable cause to believe that the organization has violated the Act.

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for Ohio AFL-CIO

American Federation of Labor and Congress of Industrial Organizations

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Lynn R. Williams

May 14, 1985

Ms. Marjorie W. Emmons
Secretary
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

RE: FEC MUR 1641
Keokuk Labor Fraternal Council

Dear Ms. Emmons:

This letter brief constitutes the response of the Keokuk Labor Fraternal Council (herein "respondent") to the General Counsel's letter and brief dated April 26, 1985, recommending that the Commission find no probable cause to believe that respondent violated 2 U.S.C. § 441b(a) of the Federal Election Campaign Act of 1971, as amended ("the Act").

For the reasons set forth in the Keokuk Labor Fraternal Council's November 1, 1984 letter to the Commission's General Counsel, Charles N. Steele, and in the General Counsel's April 26, 1985 brief herein the Keokuk Labor Fraternal Council respectfully requests the Commission to adopt the General Counsel's recommendation that the Commission find no probable cause to believe that the organization violated the Act.

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for Keokuk Labor Fraternal Council

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American Federation of Labor and Congress of Industrial Organizations

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May 14, 1985

Ms. Marjorie W. Emmons
Secretary
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

RE: FEC MUR 1641
Greater Flint AFL-CIO

Dear Ms. Emmons:

This letter brief constitutes the response of the Greater Flint AFL-CIO, (herein "respondent") to the General Counsel's letter and brief dated April 26, 1985, recommending that the Commission find no probable cause to believe that the respondent violated 2 U.S.C. § 441b(a) of the Federal Election Campaign Act of 1971, as amended ("the Act").

For the reasons set forth in the Greater Flint AFL-CIO's November 2, 1984 letter to the Commission's General Counsel, Charles N. Steele, and in the General Counsel's April 26, 1985 brief herein, the Greater Flint AFL-CIO respectfully requests the Commission to adopt the General Counsel's recommendation that the Commission find no probable cause to believe that the organization violated the Act.

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for Greater Flint AFL-CIO

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American Federation of Labor and Congress of Industrial Organizations

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May 14, 1985

Ms. Marjorie W. Emmons
Secretary
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

RE: FEC MUR 1641
Trowel Trades Local 14,
International Union of Bricklayers
and Allied Craftsmen

Dear Ms. Emmons:

This letter brief constitutes the response of the Trowel Trades Local 14 of the International Union of Bricklayers and Allied Craftsmen (herein "respondent") to the General Counsel's letter and brief dated April 26, 1985, recommending that the Commission find no probable cause to believe that the respondent violated 2 U.S.C. § 441b(a) of the Federal Election Campaign Act of 1971, as amended ("the Act").

For the reasons set forth in Trowel Trades Local 14's October 29, 1984 letter to the Commission's General Counsel, Charles N. Steele, and in the General Counsel's brief herein, dated April 26, 1985, Trowel Trades Local 14 of the International Union of Bricklayers and Allied Craftsmen respectfully requests the Commission to adopt the General Counsel's recommendation that the Commission find no probable cause to believe that the organization has violated the Act.

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for Trowel Trades Local 14

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C 20463

April 26, 1985

Margaret E. McCormick, Esquire
AFL-CIO Legal Department
815 Sixteenth Street, N.W.
Washington, D.C. 20006

Re: MUR 1641

Dear Ms. McCormick:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, determined that there was reason to believe your clients, Quad City Federation of Labor, Muskogee and Vicinity Central Labor Council, Keokuk Labor Fraternal Council, Greater Flint AFL-CIO, Maine AFL-CIO, Washington State Labor Council, Ohio AFL-CIO, Hillsborough County Central Labor Council, Wisconsin AFL-CIO, and Trowel Trades Local 14 of the International Union of Bricklayers and Allied Craftsman each violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred by Keokuk Labor Fraternal Council, Greater Flint AFL-CIO, Ohio AFL-CIO, Hillsborough County Central Labor Council, Wisconsin AFL-CIO, and Trowel Trades Local 14 of the International Union of Bricklayers and Allied Craftsman. The Commission may or may not approve the General Counsel's recommendation. In addition, with respect to the Quad City Federation of Labor, Muskogee and Vicinity Central Labor Council, Maine AFL-CIO, and Washington State Labor Council, the Office of General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred and take no further action.

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

Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosures
Briefs

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Quad City Federation of Labor, AFL-CIO	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe the Quad City Federation of Labor, AFL-CIO ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On November 1 and 14, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that 15 telephones, installed on December 10, 1983, were used by MPC intermittently during the period of December 15, 1983, until February 12, 1984. According to the Union, no deposit costs were incurred for the telephones, and the Union has billed MPC $431.10 as its pro rata share of the installation costs. The Union response also states that prior to the installation of the phones, the Union's president discussed the matter with a representative of MPC, and the "substance of that conversation was that respondent intended to install telephones in Davenport, Iowa, and that the campaign was interested in leasing those phones when not in use by the AFL-CIO."

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II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were installed subsequent to a discussion between MPC and the Union concerning MPC's use of the Union's telephones. No deposit costs, however, were apparently paid by the Union for the telephones at issue.

Under 11 C.F.R. § 114.9(d) a political committee that utilizes a labor organization's telephones is required to reimburse for such use in the amount of the normal and usual rental charge which is defined to mean "the price of those goods in the market from which they ordinarily would have been

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purchased at the time of the contribution" (11 C.F.R. § 100.7(a)(1)(iii)(B)). Hence, were MPC to install telephones at the same time in the same geographical locations as the Union's telephones MPC would have incurred installation charges. It also appears likely that the needs of MPC, relayed to the Union during discussions with MPC, may have influenced the arrangement for the installation of the telephones, as well as the timing of the installation. Thus, although no deposit costs were paid by the Union, the absorption of the installation costs of the telephones installed for the partial benefit of MPC should be considered to constitute an in-kind contribution to MPC from the Union.

Although the Union has now billed MPC $431.10 as its share of the installation costs, this billing does not vitiate the violation. Such billing is viewed only as a mitigating factor. There is no evidence in the record that the Union billed for these costs on its own initiative prior to the Commission's finding of reason to believe a violation occurred by the Union. Indeed, as late as August 20, 1984, MPC stated that it did not pay any installation costs associated with its use of the Union's telephones.

Accordingly, it is the recommendation of this Office that the Commission find probable cause to believe the Union violated 2 U.S.C. § 441b(a) by making an in-kind contribution to MPC in connection with the installation costs of the above telephones. It is, however, the further recommendation of this Office that

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the Commission take no further action against the Union in view of the amount at issue, and that such amount has been billed to MPC.

III. GENERAL COUNSEL'S RECOMMENDATION

Find probable cause to believe the Quad City Federation of Labor, AFL-CIO violated 2 U.S.C. § 441b(a) and take no further action.

26 Apr. 1985
Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 1641
Muskogee and Vicinity Central Labor Council, AFL-CIO	)	
	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe the Muskogee and Vicinity Central Labor Council, AFL-CIO ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On November 1 and 15, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that eight telephones were used by MPC during the period of December 1983 through March 17, 1984. According to the Union's response, seven of the eight telephones were installed in December 1983 and the eighth phone was installed more than five years before. The Union notes that prior to the installation of the seven phones its president discussed the matter with an MPC local representative and the "substance of that conversation was that respondent intended to install seven phones and that the campaign was interested in leasing those phones when not in use" by the Union. The Union contends that no deposit costs were incurred in connection with the telephones, and that it has

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billed MPC $422.11 as its pro-rata share of the installation of the seven telephones. In addition, the Union notes that it did not bill MPC for any share of the installation costs of its business telephone since MPC's share of those costs "is clearly de minimus."

II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include a direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

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The evidence obtained in this matter demonstrates that seven of the above telephones were installed subsequent to a discussion between MPC and the Union concerning MPC's use of the Union's telephones. No deposit costs, however, were apparently paid by the Union for the telephones at issue.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of deposit or installation costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of installation or deposit charges initially paid by a union for telephones installed solely for its own purposes. With respect to the Union's telephone that was installed five years before MPC's use and prior to any discussion between the Union and MPC concerning MPC's use of the telephone,

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the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by the Union for a telephone installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephone. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, a telephone is installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephone.

As to the seven telephones installed after discussion with MPC, the Union was required to bill MPC for a portion of the resulting installation costs based upon use. Under 11 C.F.R. § 114.9(d) a political committee that utilizes a labor organization's telephones is required to reimburse for such use in the amount of the normal and usual rental charge which is defined to mean "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution" (11 C.F.R. § 100.7(a)(1)(iii)(B)). Hence, were MPC to install telephones at the same time in the same geographical locations as the Union's telephones MPC would have

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incurred installation charges. It also appears likely that the needs of MPC, relayed to the Union during discussions with MPC, may have influenced the arrangement for the installation of the telephones, as well as the timing of the installation. Although no deposit costs were paid by the Union, the absorption of the installation costs of the telephones installed for the partial benefit of MPC should be considered to constitute an in-kind contribution to MPC from the Union.

Although the Union has now billed MPC $422.11 as its share of the installation costs, this billing does not vitiate the violation. Such billing is viewed only as a mitigating factor. There is no evidence in the record that the Union billed for these costs on its own initiative prior to the Commission's finding of reason to believe a violation occurred. Indeed, as late as August 20, 1984, MPC stated that it did not pay any installation costs associated with its use of the Union's telephones.

Accordingly, it is the recommendation of this Office that the Commission find probable cause to believe the Union violated 2 U.S.C. § 441b(a) by making an in-kind contribution to MPC in connection with the installation costs of the above seven telephones. It is, however, the further recommendation of this Office that the Commission take no further action against the Union in view of the amount at issue, and that such amount has been billed to MPC.

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III. GENERAL COUNSEL'S RECOMMENDATION

Find probable cause to believe the Muskogee and Vicinity Central Labor Council, AFL-CIO violated 2 U.S.C. § 441b(a) and take no further action.

26 April 1985
Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1641
Keokuk Labor Fraternal Council)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe the Keokuk Labor Fraternal Council ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On November 1, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that only one telephone was used by MPC, which is the Union's business telephone. According to the Union, the telephone was installed over 15 years ago and has been used continuously ever since. The Union maintains that "any installation and deposit costs for the phone used by [MPC] have long since been amortized by respondent's business use of that phone."

II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

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The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include a direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephone was pre-existing and installed 15 years prior to MPC's use. Hence, prior to the installation of the telephone there were no discussions with MPC concerning MPC's use of the telephone.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and

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usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of deposit or installation costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of a union telephone, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for a telephone installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephone. In that there were no costs to the Union for installation or deposit connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, a telephone is installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephone. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

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III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe the Keokuk Labor Fraternal Council violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

8504054 1053

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1641
Greater Flint AFL-CIO)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe the Greater Flint AFL-CIO ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On November 2, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that MPC used 12 telephones, all of which were installed in 1980 or before, during the period of March 13, 1984, through May 10, 1984. The Union notes that all of the phones "have been in service since the time of installation up to and including" the date of its response.

II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include a direct or indirect payment,

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loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were pre-existing and installed at least four years prior to MPC's use. Hence, prior to the installation of the telephones there were no discussions with MPC concerning MPC's use of the telephones.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to

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conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of deposit or installation costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of installation or deposit charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

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III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe the Greater Flint AFL-CIO violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1641
Maine AFL-CIO)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe the Maine AFL-CIO ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On November 1 and 14, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that MPC used four WATS lines, installed on or about January 15, 1984, during the period of January 16, 1984, through March 5, 1984. According to the Union, a representative of the Union discussed the installation of the telephone lines with MPC prior to the installation and MPC expressed its interest in leasing the lines when they were not in use by the Union. The Union notes that no deposit costs were incurred by the Union. The Union's response concludes that it has billed MPC $46.89 as its pro rata share of the installation costs of the telephones it utilized.

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II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephone lines were installed subsequent to a discussion between MPC and the Union concerning MPC's use of the Union's telephones. No deposit costs, however, were paid by the Union for the telephones at issue.

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Under 11 C.F.R. § 114.9(d) a political committee that utilizes a labor organization's telephones is required to reimburse for such use in the amount of the normal and usual rental charge which is defined to mean "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution" (11 C.F.R. § 100.7(a)(1)(iii)(B)). Hence, were MPC to install telephone lines at the same time in the same geographical locations as the Union's telephones MPC would have incurred installation charges. It also appears likely that the needs of MPC, relayed to the Union during discussions with MPC, may have influenced the arrangement for the installation of the telephone lines, as well as the timing of the installation. Although no deposit costs were paid by the Union, the absorption of the installation cost of the telephone lines installed for the partial benefit of MPC should be considered to constitute an in-kind contribution to MPC from the Union.

Although the Union has now billed MPC $46.89 as its share of the installation cost, this billing does not vitiate the violation. Such billing is viewed only as a mitigating factor. There is no evidence in the record that the Union billed for these costs on its own initiative prior to the Commission's finding of reason to believe a violation occurred. Indeed, as late as August 20, 1984, MPC stated that it did not pay any installation costs associated with its use of the Union's telephones.

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Accordingly, it is the recommendation of this Office that the Commission find probable cause to believe the Union violated 2 U.S.C. § 441b(a) by making an in-kind contribution to MPC in connection with the installation costs of the above telephone lines. It is, however, the further recommendation of this Office that the Commission take no further action against the Union in view of the minimal amount at issue, and that such amount has been billed to MPC.

III. GENERAL COUNSEL'S RECOMMENDATION

Find probable cause to believe the Maine AFL-CIO violated 2 U.S.C. § 441b(a) and take no further action.

26 April 1985
Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Washington State Labor Council) MUR 1641

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe the Washington State Labor Council, AFL-CIO ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On November 1 and 14, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that a number of telephones, installed on December 13, 1983, were used by MPC at eight locations throughout the state at various times. The Union notes that with the exception of telephones in Everett, Washington, no deposit costs were incurred for the telephones used by MPC, and that in Everett the deposit was credited in full towards the Union's first bill. According to the Union, its COPE Coordinator discussed the planned installation of telephones at eight locations with MPC, and MPC indicated that they were interested in leasing those phones when not in use by the Union. The Union's response concludes that it has billed MPC "$2,167.30 as its pro-rata share of the

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installation costs" of the telephones used by MPC.

II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were installed subsequent to a discussion between MPC and the Union concerning MPC's use of the Union's telephone. In addition, a deposit was paid by the Union for telephones in one of the seven locations involved.

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Under 11 C.F.R. § 114.9(d) a political committee that utilizes a labor organization's telephones is required to reimburse for such use in the amount of the normal and usual rental charge which is defined to mean "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution" (11 C.F.R. § 100.7(a)(1)(iii)(B)). Hence, were MPC to install telephones at the same time in the same geographical locations as the Union's telephones MPC would have incurred installation and, perhaps, deposit charges. It also appears likely that the needs of MPC, relayed to the Union during discussions with MPC, may have influenced the arrangement for the installation of the telephones, as well as the timing of the installation. Thus, although no deposits costs were paid by the Union in seven of the eight locations, the absorption of the installation and one deposit cost of the telephones installed for the partial benefit of MPC should be considered to constitute an in-kind contribution to MPC from the Union.

Although the Union has now billed MPC $2,167.30 as its share of the installation costs, this billing does not vitiate the violation. Such billing is viewed only as a mitigating factor. There is no evidence in the record that the Union billed for these costs on its own initiative prior to the Commission's finding of reason to believe a violation occurred. Indeed, as late as August 20, 1984, MPC stated that it did not pay any installation costs associated with its use of the Union's telephones.

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Accordingly, it is the recommendation of this Office that the Commission find probable cause to believe the Union violated 2 U.S.C. § 441b(a) by making an in-kind contribution to MPC in connection with the installation and deposit costs of the above telephones. It is, however, the further recommendation of this Office that the Commission take no further action against the Union in view of the fact that the Union has billed MPC for its share of the installation costs at issue and the deposit paid by the Union was immediately credited back to the Union.

III. GENERAL COUNSEL'S RECOMMENDATION

Find probable cause to believe the Washington State Labor Council violated 2 U.S.C. § 441b(a) and take no further action.

26 April 1985
Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1641
Ohio AFL-CIO)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe the Ohio AFL-CIO ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 1 and 14, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that 18 telephones, installed on April 6, 1984, were used by MPC for a total of seven days (April 28, 1984, to May 5, 1984). According to the Union, there were no discussions between the Union and MPC concerning the installation or use of the telephones prior to the installation, and no deposit costs were incurred by the Union. The Union's response concludes that it has billed MPC $442.10 as its pro rata share of the installation costs of the telephones it utilized.

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II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were installed by the Union prior to any discussion with MPC concerning MPC's use of the telephones. In addition, there were no deposit costs paid by the Union for the telephones at issue.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With

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respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of installation or deposit charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to,

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and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe the Ohio AFL-CIO violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

8504054 1069

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Hillsborough County Central Labor Council	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe the Hillsborough County Central Labor Council ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 30 and November 14, 1984, the Union responded to the Commission's finding and order.

The response of the Union states that six telephones, installed on January 20, 1984, were used by MPC for three hours a day for the period from February 22, 1984, to March 12, 1984. According to the Union, there were no discussions between the Union and MPC prior to the installation, and no deposit costs were incurred by the Union. The Union's response concludes that the installation costs for the six telephones totalled $328.62 and "[w]hen that amount is pro-rated by the 56 days the phones were in service the result is a daily installation cost of $5.87." Moreover, since MPC "only used the phones 3 hours per day, [MPC's] share of the daily installation cost would amount to

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only $2.19 which, multiplied by 14 -- the number of days [MPC] used the phones -- amounts to $30.66." Therefore, it is the position of the Union that the costs at issue are de minimus.

II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were installed by the Union prior to any discussion with MPC concerning MPC's use of the telephones. In addition, there were no deposit costs paid by the Union for the telephones at issue.

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The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of installation or deposit charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes,

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without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe the Hillsborough County Central Labor Council violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1641
Wisconsin AFL-CIO)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe the Wisconsin AFL-CIO ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29 and November 14, 1984, the Union responded to the Commission's finding and order.

The response of the Union states that a total of 25 telephones, installed on March 9, 1984, were utilized by MPC from March 10, 1984, through April 12, 1984, at two locations. According to the Union, there were no discussions between the Union and MPC about the installation or use of telephones prior to the installation, and no deposit costs were incurred by the Union. The Union's response concludes that it has billed MPC $224.33 as its pro rata share of the installation costs of the telephones it utilized.

II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

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The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were installed prior to any discussion between the Union and MPC concerning MPC's use of the telephones. In addition, there were no deposit costs paid by the Union for the telephones at issue.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved

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"[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of deposit or installation costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of installation or deposit charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

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III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe the Wisconsin AFL-CIO violated 2 U.S.C. § 441b(a).

2/8/81
Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Trowel Trades Local 14, International Union of Bricklayers and Allied Craftsmen	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe Trowel Trades Local 14, International Union of Bricklayers and Allied Craftsmen ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that two telephones were used by MPC. According to the Union, the two telephones were existing business telephones which were installed in 1968 and 1982, respectively. The Union maintains that it has used the telephones continuously since their installation. It is the position of the Union that "any installation or deposit costs connected with respondent's telephones have long since been amortized by respondent's business use of the telephones," and that "since there are no calculable deposit or installation costs for the telephones which

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respondent leased" to MPC, the Union's failure to include those costs in the amount which the Local billed to the campaign for phone usage and space did not violate 2 U.S.C. § 441b(a)."

II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were pre-existing business telephones, one of which was installed at least 15 years prior to MPC's use. Hence, prior to the installation of the telephones there were no discussions between the Union and MPC concerning MPC's use of telephones.

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The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of deposit or installation costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes,

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without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe Trowel Trades Local 14, International Union of Bricklayers and Allied Craftsmen violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

April 26, 1985

Alan V. Reuther, Assistant General Counsel
International Union, United Automobile,
Aerospace and Agricultural Implement
Workers of America, UAW
1757 N Street, N.W.
Washington, D.C. 20036

Re: MUR 1641
Muskegon County
UAW CAP Council

Dear Mr. Reuther:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, found reason to believe that your client, the Muskegon County UAW CAP Council, violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosures
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1641
Muskegon County UAW)
CAP Council)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe the Muskegon County UAW CAP Council ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that four of its telephones were used by MPC from March 12, 1984, through March 16, 1984, for a total of 50 telephone hours which "represented 10 per cent of the total time the telephones were used during the month of March." According to the Union, the telephones were installed on January 31, 1984, for the purpose of conducting "a program of internal communications directed at members of the CAP Council and their families in connection with the 1984 elections," and to conduct "similar internal communication programs in connection with future election campaigns and other activities." The Union notes that the

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telephones were "used by the CAP Council during the months of February and March 1984, and again in September and October 1984, in connection with this program," and that the Union "plans to use the telephones to conduct similar internal communications programs in the future."

The cost of installing all ten telephones totalled $503.36, including "$251.42 in one-time-only charges for installing permanent wiring and jacks," according to the Union. The Union maintains that the "charges for this permanent capital improvement will not have to be incurred again by the CAP Council in connection with future uses of the telephones," and that it did not pay any deposit costs in connection with the telephones. Finally, the Union's response claims that it did not discuss the installation or use of the telephones with MPC prior to the installation of the telephones.

It is the position of the Union that "as a matter of law, telephone installation and deposit costs do not have to be included in calculating the normal and usual rental charge for the use of corporate and union telephones." Moreover, the Union argues that in "various advisory opinions and compliance actions" the Commission has never given "any indication that any portion of the installation or deposit costs associated with the telephones would have to be reimbursed by the candidate or political committee". The Union argues that by taking its

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present position with respect to installation and deposit costs, "the Commission in effect is attempting to adopt a new interpretation of the term 'normal and usual rental charge,' and thus is trying to modify sections 114.9(d) and 100.7(a)(1)(iii)(B) of its regulations." According to the Union, "[t]his attempt to use a compliance action to circumvent the procedures set forth in sections 437f(b) and 438(d) of the FECA is clearly improper." Moreover, the Union argues that "it is well established that the courts will not honor an agency's interpretation of its own regulations where that interpretation previously was not adequately articulated by the agency, or is inconsistent with earlier pronouncements by the agency." Assuming arguendo that it should have billed MPC for a portion of the installation costs at issue, the Union maintains that the portion "which could even arguably be attributed to the MPC would be extremely small" because the costs must be amortized over time.

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II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any

person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that all of the above telephones were installed prior to any discussion with MPC concerning MPC's use of the telephones at issue. In addition, the Union did not pay any deposit costs for the telephones.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market,

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including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of deposit or installation costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

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III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe the Muskegon County UAW CAP Council violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 26, 1985

Edward Wendel, Esquire
United Food and Commercial Workers
International Union
1775 K Street, N.W.
Washington, D.C. 20006

Re: MUR 1641
UFCW; UFCW Locals 6P, 1161, 1169,
31P, 71, 47P, and 1439

Dear Mr. Wendel:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, determined that there was reason to believe your clients, UFCW, UFCW Local 6P, UFCW Local 1161, UFCW Local 1169, UFCW Local 31P, UFCW Local 71, UFCW Local 47P, and UFCW Local 1439, each violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred by each of your clients. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review are eight briefs stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Briefs

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
United Food and Commercial Workers International Union	)	MUR 1641

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Food and Commercial Workers International Union ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29, and November 8, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that it arranged for the installation of telephones in Muscatine, Council Bluffs, Cherokee, Mason City, and Esterville, Iowa. The Union explains that five telephones were installed in Muscatine, Iowa, on December 21, 1983, at a cost of $260.37, and that MPC "was billed and has paid $28.05 on its share of the installation fee." According to the Union, in Council Bluffs, Iowa, ten telephones were installed on January 20, 1984, at a cost of $358.82, and MPC was billed and has paid $35.86 of its share of the installation fee. The Union further states that in Cherokee, Iowa, three telephones were installed on December 13, 1983, at a

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cost of $159.54, and that MPC was billed $15.96 for its portion of the installation charges. As to Mason City, Iowa, the Union explains that seven telephones were installed on January 11, 1984, at a cost of $322.12, and that MPC was billed $32.21 for its portion of the installation charges. Finally, with respect to Esterville, Iowa, the Union states that three telephones were installed on December 15, 1983, at a cost of $179.94, and that MPC was billed $17.49 for its portion of these installation charges.*/

The response of the Union further states that prior to the installation of the telephones there were no discussions between the Union and MPC concerning MPC's use of the telephones at issue. The Union's response explains that the telephones were also used by the Union to communicate with its members. In conclusion, it is noted that no deposits were paid by the Union for the telephones involved herein.

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

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*/ The Union's October 29, 1984, reply notes that "[i]n cases where new telephones were installed the union, while in disagreement with the Commission's position that it was required to do so, has, in fact billed the Mondale campaign for a portion of the installation costs for new telephones."

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The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were installed by the Union prior to any discussion with MPC concerning MPC's use of the telephones. In addition, no deposit costs were paid by the Union for the telephones at issue.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved

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"[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

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III. General Counsel's Recommendation

Find no probable cause to believe the United Food and Commercial Workers International Union violated 2 U.S.C. § 441b(a).

26 April 1995
Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
United Food and Commercial Workers International Union, Local 6P	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Food and Commercial Workers International Union, Local 6P ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29, October 30, and November 8, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that two telephones were used by MPC from January 18, 1984, to February 19, 1984. According to the Union, the telephones at issue were installed in 1964 "to conduct the regular business affairs of the local union." The Union further explains that since the telephones had been in place for 20 years there could not have been any conversations between the Union and MPC about the use or installation of the telephones prior to their installation. The Union's response concludes by stating that it did not bill MPC for part of the installation cost of the pre-existing telephones.

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II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that above two telephones were pre-existing business telephones installed over 20 years ago. Hence, prior to the installation of the telephones there were no discussions between the Union and MPC concerning MPC's use of the telephones.

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The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes,

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without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the United Food and Commercial Workers International Union, Local 6P violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
United Food and Commercial Workers International Union, Local 1161	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Food and Commercial Workers International Union, Local 1161 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29, October 30, and November 8, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that one telephone was used by MPC from February 1, 1984, to February 20, 1984. According to the Union, the telephone at issue was installed in 1966 "to conduct the regular business affairs of the local union." The Union further explains that since the telephone had been in place for about 16 years there

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could not have been any conversations between the Union and MPC about the use or installation of the telephone prior to its installation. The Union's response concludes by stating that it did not bill MPC for any part of the installation cost of the pre-existing telephone.

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

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The evidence obtained in this matter demonstrates that the telephone utilized by MPC was a pre-existing business telephone, installed in 1966. Hence, prior to the installation of the telephone there were no discussions with MPC concerning MPC's use of the telephone.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of a union telephone, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for a telephone installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephone. In that there were no

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costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, a telephone is installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephone. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the United Food and Commercial Workers International Union, Local 1161 violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
United Food and Commercial Workers International Union, Local 1169	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Food and Commercial Workers International Union, Local 1169 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29, October 30, and November 8, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that one telephone was used by MPC from January 31, 1984, to February 20, 1984. According to the Union, the telephone at issue was installed in 1977 "to conduct the regular business affairs of the local union." The Union further explains that since the telephone had been in place for seven years there could not have been any conversations between the Union and MPC about the use or installation of the telephone prior to its installation. The Union's response concludes by stating that it did not bill MPC for part of the installation cost of the pre-existing telephone.

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II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephone was a pre-existing business telephone, installed seven years prior to MPC's use. Hence, prior to the installation of the telephone there were no discussions between the Union and MPC concerning MPC's use of the telephone.

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The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of a union telephone, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for a telephone installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephone. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, a telephone is installed by a labor union for its own purposes,

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without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephone. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the United Food and Commercial Workers International Union, Local 1169 violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
United Food and Commercial Workers International Union, Local 31P	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Food and Commercial Workers International Union, Local 31P ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29, October 30, and November 8, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that six telephones were used by MPC; the telephones were installed on January 5, 1984, and disconnected on February 20, 1984. According to the Union, the telephones "were installed for the purposes of communicating with local union members regarding the Union's position on the elections." The Union further notes that a $1,000 deposit was paid for the telephones "which has since been returned to the Local Union with a credit of $26.63 for the interest earned in this amount." In addition, the

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Union's response asserts that MPC was billed $20.43 for its share of the installation fee of $204.30. Finally, the Union's response explains that there were "no discussions between the Mondale campaign and any agent of the labor organization prior to the installation of the new telephones."

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

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The evidence obtained in this matter demonstrates that the above telephones were installed prior to any discussion between the Union and MPC concerning MPC's use of the telephones. The telephones were installed for internal communications with Union members.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of

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MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the United Food and Commercial Workers International Union, Local 31P violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
United Food and Commercial Workers International Union, Local 71	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Food and Commercial Workers International Union, Local 71 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29, and November 8, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that ten telephones, installed on January 8, 1984, and disconnected on February 19, 1984, were used by MPC. According to the Union, the telephones "were installed for the purposes of communicating with local union members regarding the Union's position on the elections." The Union further notes that no deposit was required, and that MPC "was billed and has paid $59.65 as its share of the installation costs of $596.55." Finally, the Union's response explains that there were "no

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discussions between the Mondale campaign and any agent of the labor organization prior to the installation of the new telephones."*/

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

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*/ The Union's October 29, 1984, reply notes that "[i]n cases where new telephones were installed the union, while in disagreement with the Commission's position that it was required to do so, has, in fact billed the Mondale campaign for a portion of the installation costs for new telephones."

The evidence obtained in this matter demonstrates that the above telephones were installed prior to any discussion between the Union and MPC concerning MPC's use of the telephones. In addition, no deposit costs were paid by the Union for the telephones at issue.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs

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to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the United Food and Commercial Workers International Union, Local 71 violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
United Food and Commercial Workers International Union, Local 47P	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Food and Commercial Workers International Union, Local 47P ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29, and November 8, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that ten telephones, installed on January 18, 1984, and disconnected on February 20, 1984, were used by MPC. According to the Union, the telephones "were installed for the purposes of communicating with local union members regarding the Union's position on the elections." The Union further notes that no deposit was required for the ten telephones, and that MPC "was billed $23.13 as its portion of the installation costs of $231.30." Finally, the Union's response explains that there were

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"no discussions between the Mondale campaign and any agent of the labor organization prior to the installation of the new telephones."*/

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

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*/ The Union's October 29, 1984, reply notes that "[i]n cases where new telephones were installed the union, while in disagreement with the Commission's position that it was required to do so, has, in fact billed the Mondale campaign for a portion of the installation costs for new telephones."

The evidence obtained in this matter demonstrates that the above telephones were installed prior to any discussion with MPC concerning MPC's use of the telephones. In addition, no deposit costs were paid by the Union for the telephones at issue.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of

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MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the United Food and Commercial Workers International Union, Local 47P violated 2 U.S.C. § 441b(a).

26 July 1985
Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
United Food and Commercial Workers International Union, Local 1439	)	MUR 1641
	)	
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Food and Commercial Workers International Union, Local 1439 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29, October 30, and November 8, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that one telephone was used by MPC for one week. According to the Union, the telephone at issue was installed in 1980 "to conduct the regular business affairs of the local union." The Union further explains that since the telephone had been in place for about four years there could not have been any conversations between the Union and MPC about the use or installation of the telephone prior to its installation. The Union's response concludes by stating that it did not bill MPC for part of the installation of the pre-existing telephone.

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II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephone utilized by MPC was a pre-existing business telephone installed four years prior to MPC's use. Hence, prior to the installation of the telephone there were no discussions with MPC concerning MPC's use of the telephone.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With

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respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of a union telephone, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for a telephone installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephone. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, a telephone is installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to,

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and paid by, a political committee which subsequently utilizes the union's pre-existing telephone. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the United Food and Commercial Workers International Union, Local 1439 violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 26, 1985

Larry P. Weinberg, Esquire
Kirschner, Weinberg, Dempsey, Walters
and Willig
1100 17th Street, N.W.
Suite 800
Washington, D.C. 20036

Re: MUR 1641
AFSCME District Council 37,
Local 372

Dear Mr. Weinberg:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, found reason to believe that your client, AFSCME District Council 37, Local 372, violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosures
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
AFSCME District Council 37, Local 372	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe AFSCME District Council 37, Local 372 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29, 1984, and November 5, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that MPC used seven telephones on May 30, 1984, fourteen telephones on May 31, 1984, six telephones on June 2, 1984, eighteen telephones on June 4, 1984, and eighteen telephones on June 5, 1984, from 6 p.m. until 9 p.m. on each day. According to the Union, the telephones used by MPC were installed on or about March 15, 1983, for various purposes including general communications with members. The Union's response maintains that it is unable to determine the cost of installing the telephones used by MPC, and that it does not appear that any deposits were paid for the telephones. The Union's response further contends

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that there was "no consultation" with the Mondale campaign with regard to the installation of those telephones which were "in fact, installed and used primarily for purposes which had nothing to do with either the Mondale campaign or any other election for federal office."

In conceding that it did not bill MPC for any portion of installation and deposit costs it may have paid when the telephones at issue were originally installed, the Union argues that it "will not concede that there is any requirement in the Act, the Commission's Regulations, its Advisory Opinions or previous MURs that a candidate be charged for installation costs or deposits when it leases telephones from a labor organization for use in connection with its campaign." The Union submits that "where, as here, the telephones were installed more than a year before their use by the campaign without any consultation between the labor organization and the campaign and were installed and used almost exclusively for union purposes having nothing to do with this or any other campaign for federal office, there is no basis whatever for requiring a labor organization to include any amount for deposits or installation costs in calculating the amount it will charge a campaign to which it leases those telephones." Finally, the Union claims that "even assuming arguendo that there were such a requirement applicable to this Respondent, the appropriate charge to the campaign for its proportionate share of such costs would be de minimus where the telephones were installed well over a year before their use by

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the campaign and heavily used for other purposes during the intervening period."

II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were installed prior to any discussion with MPC concerning MPC's use of the telephones at issue. In addition, no deposit costs wre apparently paid by the Union for the telephones.

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The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of deposit or installation costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to

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MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe AFSCME District Council 37, Local 372 violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 26, 1985

Kathy L. Krieger, Esquire
United Brotherhood of Carpenters and
Joiners of America
101 Constitution Avenue, N.W.
Washington, D.C. 20001

Re: MUR 1641
UBCJA, Local 678
UBCJA, Local 512

Dear Ms. Krieger:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, determined that there was reason to believe your clients, Locals 678 and 512 of the United Brotherhood of Carpenters and Joiners of America, each violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred by each of your clients. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review are two briefs stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosures
Briefs

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
United Brotherhood of Carpenters and Joiners of America, Local 678	)	MUR 1641
	)	
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GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Brotherhood of Carpenters and Joiners of America, Local 678 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 30, 1984, and November 13, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that in December of 1983 MPC utilized additional telephones that were installed by the Union on the Union's premises. According to the Union, its business agent "recalls that after arrangements had been made with the phone company, but before the phones were put in place, a representative of [MPC] called him and asked whether Local 678 would object to [MPC] using phones on the Local's premises at times when they were not being used by union representatives to contact union members." The Union further

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maintains that "no deposit fees for the telephones were charged to or incurred by the Union," and that the Union has billed MPC for $123.63 as its share of the installation costs.

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that arrangements for the installation of the above telephones were made prior to discussion with MPC concerning MPC's use of the telephones. In addition, no deposit costs were paid by the Union for the telephones at issue.

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The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there is no evidence of any additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are arranged to be installed by a

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labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the United Brotherhood of Carpenter and Joiners of America, Local 678 violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

8504054137

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 1641
United Brotherhood of Carpenters and Joiners of America, Local 512	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Brotherhood of Carpenters and Joiners of America, Local 512 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 30, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that it "did not incur any telephone deposit or installation costs in connection with a federal election campaign." According to the Union, the telephones "involved in this matter were existing business telephones that had been installed in 1968, approximately 16 years ago, when Local 512 began occupying its office facility."

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

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The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones had been installed in 1968, fifteen years prior to MPC's use. Hence, prior to the installation of the telephones there were no discussions between the Union and MPC concerning MPC's use of the telephones.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved

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"[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

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III. General Counsel's Recommendation

Find no probable cause to believe the United Brotherhood of Carpenters and Joiners of America, Local 512 violated 2 U.S.C. S 44lb(a).

26 April 1985
Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 26, 1985

Robert H. Chanin, General Counsel
Joy L. Koletsky, Esquire
National Education Association
1201 Sixteenth Street, N.W.
Washington, D.C.

Re: MUR 1641
Burlington County Education Association; Clark County Classroom Teachers Association; Massachusetts Teachers Association; MEA-NEA, Local 1

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Dear Mr. Chanin and Ms. Koletsky:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, determined that there was reason to believe your clients, the Burlington County Education Association, the Clark County Classroom Teachers Association, the Massachusetts Teachers Association, and MEA-NEA Local 1, each violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred by each of your clients. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review are four briefs stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosures
Briefs

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1641
Burlington County Education Association)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe the Burlington County Education Association ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that eight telephones were used by MPC for 15 days between May 22, 1984, and June 5, 1984. According to the Union, the telephones were installed in September of 1979, and activated on May 16, 1984, at a cost of $61.99. The Union's response contends that no deposits costs were incurred by the Union for the telephones, and that it discussed the activation of the telephones with MPC prior to the activation. In conclusion, the Union's response states that it has billed MPC $61.99 for the activation costs it incurred. According to counsel for the Union, the Union's billing occurred prior to the Commission's finding of reason to believe a violation occurred by the Union.

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II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence in hand demonstrates that no deposit costs were paid by the Union for the telephones utilized by MPC. In addition, the Union billed MPC for its share of the activation costs involved.

Under 11 C.F.R. § 114.9(d) a political committee that utilized a labor organization's telephones is required to reimburse for such use in the amount of the normal and usual rental charge which is defined to mean "the price of those goods

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in the market from which they ordinarily would have been purchased at the time of the contribution" (11 C.F.R. § 100.7(a)(1)(ii)(B)). Hence, were MPC to use telephones at the same time in the same geographical location as the Union's telephones it would have incurred installation or activation costs. It appears likely that the needs of MPC, relayed to the Union during discussions with MPC, may have influenced the arrangement for the activation of the telephones. Thus, were the Union to absorb the total deposit or activation costs of the telephones which partially benefited MPC, the Union would have made an in-kind contribution to MPC. In the instant matter, however, no deposit costs were paid by the Union, and the Union billed MPC for its share of the activation costs on its own initiative and prior to the Commission's finding of reason to believe a violation occurred by the Union. In view of this circumstance it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

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III. GENERAL COUNSEL'S RECOMMENDATIONS

Find no probable cause to believe the Burlington County Education Association violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1641
Clark County Classroom)
Teachers Association)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe the Clark County Classroom Teachers Association ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that six telephones were used by MPC for five days from March 9, 1984, through March 13, 1984. According to the Union, the telephones were installed at least two years previously, and were activated on March 8, 1984, at a cost of was $114.60. The Union's response contends that no deposit costs were incurred by the Union for the telephones. The Union notes that it discussed the activation of the telephones with MPC prior to the activation. In conclusion, the Union's response states that it has billed MPC $114.60 for the activation costs it incurred. According to counsel for the Union, the Union's billing occurred prior to the Commission's finding of reason to believe a violation had occurred by the Union.

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II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence in hand demonstrates that no deposit costs were paid by the Union for the telephones utilized by MPC. In addition, the Union billed MPC for its share of the activation costs involved.

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Under 11 C.F.R. § 114.9(d) a political committee that utilizes a labor organization's telephones is required to reimburse for such use in the amount of the normal and usual rental charge which is defined to mean "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution" (11 C.F.R. § 100.7(a)(1)(iii)(B)). Hence, were MPC to use telephones at the same time in the same geographical locations as the Union's telephones it would have incurred installation or activation costs. It appears likely that the needs of MPC, relayed to the Union during discussions with MPC, may have influenced the arrangement for the activation of the telephones. Thus, were the Union to absorb the total deposit or activation costs of the telephones which partially benefited MPC, the Union would have made an in-kind contribution to MPC. In the instant matter, however, no deposit costs were paid by the Union, and on its own initiative and prior to the Commission's finding of reason to believe a violation occurred by the Union, the Union billed MPC for its share of the activation costs. In view of this circumstance it is the recommendation of this office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

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III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe the Clark County Classroom Teachers Association violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

8504054150

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1641
Massachusetts Teachers Association)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe the Massachusetts Teachers Association ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 25, 1984, along with an order to submit written answers. On October 29, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that five telephones were used by MPC during the evenings of February 27, February 29, March 5, March 7, and March 9, 1984; some of the five telephones were used on only two evenings. According to the Union, the various telephones used by MPC were installed in June 1982 (Auburn, MA), February 1982 (Randolph, MA), April 1977 (Raynham, MA), and May 1979 (Boston, MA). The Union notes that the only installation costs known are for telephones in Boston where a complete telephone system was installed in 1979 at a cost of $9,466. In view of the dates of the installations, the Union asserts that prior to the installations there were no discussions with MPC concerning

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MPC's use of the telephones, and that no deposit costs were incurred. Consequently, the Union did not bill MPC for any portion of installation or deposit costs. The Union's response further notes that the telephones "will remain installed and activated for the indefinite future" for use by the Union in the regular course of its business, and, therefore, it is "impossible" to determine MPC's pro-rata share of the cost of installation based on total use.

II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

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The evidence obtained in this matter demonstrates that the above telephones were installed by the Union prior to any discussion with MPC concerning MPC's use of the telephones. In addition, no deposits costs were paid by the Union for the telephones at issue.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of deposit or installation costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of installation or deposit charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs

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to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the Massachusetts Teachers Association violated 2 U.S.C. § 441b(a).

26 April 1984
Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1641
MEA-NEA, Local 1)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe MEA-NEA, Local 1 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 25, 1984, along with an order to submit written answers. On October 29, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that three to four telephones were used by MPC from the beginning of January 1984 through March 17, 1984, for a total of 65 hours. The Union maintains that there was no additional installation of telephones for MPC, and that the phones used by MPC were existing telephones installed in December 1982. In view of the date of the installation, the Union asserts that prior to the installation there were no discussions with MPC concerning the use of the telephones by MPC. According to the Union, it did not incur any deposit costs in connection with the telephones, and, consequently, it did not bill MPC for any portion of installation

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or deposit costs. The Union's response further notes that the telephones "will remain installed and activated for the indefinite future" by the Union in the regular course of its business and, therefore, it is "impossible" to determine MPC's pro-rata share of the cost of installation based on total use.

II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were pre-existing, and installed at least a year before MPC's use. Hence, prior to the installation there were no

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discussions between the Union and MPC concerning MPC's use of the telephones. In addition, the Union did not incur any deposit costs in connection with the telephones at issue.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of deposit or installation costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of installation or deposit charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's

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use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe MEA-NEA, Local 1 violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 26, 1985

Michael Hamilton, Esquire
United Paperworkers International Union
Legal Department
P.O. Box 1475
Nashville, TN 37202

Re: MUR 1641
U.P.I.U. Local 75; U.P.I.U. Local 61

Dear Mr. Hamilton:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, found reason to believe that each of your clients, Locals 61 and 75 of the United Paperworkers International Union, violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred by each of your clients. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review are two briefs stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating each of your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosures
Briefs

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
United Paperworkers International Union, Local 61	)	MUR 1641
	)	
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Paperworkers International Union, Local 61 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 12 and 25, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that MPC used one of the Union's telephones from February 23 through February 28, 1984, for three hours to make a total of 37 telephone calls. According to the Union, the telephone in question was installed in 1972; the Union has no documentation of the cost of the installation or the amount of the deposit paid. In view of the date of installation, the Union asserts that prior to the installation there were no discussions with MPC concerning MPC's use of the Union's telephone. It is the position of the Union that the "rental fee charged MPC for its use of the

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telephone should be considered more than adequate reimbursement for their proportional share of the installation and deposits costs incurred by the Local Union in 1972."[1/]

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

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1/ The Union notes that it billed MPC for use of the Union's facilities and telephones on April 12, 1984.

The evidence obtained in this matter demonstrates that the above telephone utilized by MPC was a pre-existing business telephone installed twelve years prior to MPC's use. Hence, prior to the installation of the telephone there were no discussions with MPC concerning MPC's use of the telephone.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of a union telephone, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for a telephone installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of

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MPC's use of the Union's telephone. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, a telephone is installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephone. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the United Paperworkers International Union, Local 61 violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
United Paperworkers International Union, Local 75	)	MUR 1641
	)	

GENERAL COUNSEL's BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Paperworkers International Union, Local 75 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 23, 1984, November 1, 1984, and December 31, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that on October 20, 1983, the Union entered into an agreement with MPC for the use of the Union's facilities, including ten telephones. According to the Union, the telephones were installed on or about December 15, 1983, at a cost of $405.67 and were used between January 1, 1984, and February 29, 1984, for a total of 585 operator hours. The Union notes that on April 17, 1984, in accordance with its agreement with MPC, it sent MPC an invoice representing all the costs incurred by the Union in connection with MPC's use of the Union's facilities and

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equipment, and totalling $1,727.56. */ A copy of the Union's invoice to MPC was appended to its response which shows that MPC was billed $267.25 for 66% of the installation costs incurred by the Union for the telephones used by MPC. The telephones were installed for the purpose of membership communications and to provide telephone bank service to MPC during the New Hampshire primary, according to the Union. In conclusion, the Union argues that because the Union billed MPC for its use of the Union's facilities and equipment, "there is no basis for believing that Local 75 violated the Act."

II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture,

*/ On December 31, 1984, the Union advised this Office that the Union had recently received payment from MPC in the amount of $1,727.56. In a telephone conversation with the Union's counsel on January 7, 1985, counsel stated that no deposit costs had been incurred by the Union.

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for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence in hand demonstrates that no deposit costs were paid by the Union for the telephones utilized by MPC. In addition, the Union billed MPC for its share of the installation costs involved.

Under 11 C.F.R. § 114.9(d) a political committee that utilizes a labor organization's telephones is required to reimburse for such use in the amount of the normal and usual rental charge which is defined to mean "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution" (11 C.F.R. § 100.7(a)(1)(iii)(B)). Hence, were MPC to install telephones at the same time in the same geographical locations as the Union's telephones it would have incurred installation costs. It appears likely that the needs of MPC, relayed to the Union during discussions with MPC, may have influenced the arrangement for the installation of the telephones, as well as the timing of the installation. Thus, were the Union to absorb the total deposit and installation cost of the telephones installed for the partial benefit of MPC, the Union would have made an in-kind contribution to MPC. In the instant matter, however, no deposits

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were paid by the Union and the Union billed MPC for its share of the installation cost on its own initiative and prior to the Commission's finding of reason to believe a violation occurred by the Union. In view of this circumstance it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe the United Paperworkers International Union, Local 75 violated 2 U.S.C. § 441b(a).

26 Apr 1985
Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C 20463

April 26, 1985

Joseph M. Guzinski, Esquire
Peterson, Goodman, Weiners and
Guzinski
202 Omni Building
1652 Greenview Drive, S.W.
Rochester, MN 55903

Re: MUR 1641
Hotel, Hospital, Restaurant,
and Tavern Employees, Local
21

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Dear Mr. Guzinski:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, found reason to believe that your client, Hotel, Hospital, Restaurant and Tavern Employees, Local 21, violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosures
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Hotel, Hospital, Restaurant and)
Tavern Employees, Local 21) MUR 1641

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the Hotel, Hospital, Restaurant and Tavern Employees, Local 21 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 10 and 29, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that three telephones were used on February 10, 13, and 14, 1984, for a total of four and a half hours. According to the Union, the telephones used by MPC were installed in April of 1975 at a cost of $76.70, including deposits. The Union's response states that it did not bill MPC for any portion of the telephone installation or deposit costs. In addition, the Union explains that in view of the date of the installation of the telephones in question, there were no discussions between the Union and MPC prior to the installation concerning the installation or use of the telephones by MPC.

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II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

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The evidence obtained in this matter demonstrates that the above telephones were pre-existing business telephones, installed nine years prior to MPC's use. Hence, the telephones at issue were installed prior to any discussion between the Union and MPC concerning MPC's use of the telephones.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission

determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of deposit or installation costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposits costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes

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the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe the Hotel, Hospital, Restaurant and Tavern Employees, Local 21 violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 26, 1985

Robert Matisoff, Esquire
O'Donoghue and O'Donoghue
4748 Wisconsin Avenue, N.W.
Washington, D.C. 20016

Re: MUR 1641
United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the U.S. and Canada, Local 190

Dear Mr. Matisoff:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, found reason to believe that your client, United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the U.S. and Canada, Local 190, violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosures
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, Local 190	)	MUR 1641

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, Local 190 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 17 and 29, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that two telephones were used by MPC during December 1983 and March 1984. According to the Union, the two telephones were installed in June 1982 as part of a new telephone system; the installation and purchase of the complete system, including other telephones, totalled $2,631.28. Moreover, no deposits were paid "as the phones were purchased" by the Union. The Union further asserts that prior to the installation there were no discussions with MPC concerning the use or installation of the telephones

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ultimately used by MPC. It is the position of the Union that because the telephones at issue were purchased in 1982 "there were no installation costs incurred that could in any reasonable way be attributed to the MPC for its temporary use of two of the Local's telephones during two months in 1984." The Union emphasizes that "even if any amount of the installation costs could rationally be apportioned to the MPC, the amount would be truly de minimis, since the installation costs would have to be spread out into the future over the period the phones are actually in use by the Local," and MPC's "part-time use of the phones during two months would prove to be but a tiny fraction of the total useful life of the phones."

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially

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reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were installed prior to any discussion with MPC concerning MPC's use of the telephones. In addition, no deposits were paid by the Union for the telephones.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of deposit or installation costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own

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purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, Local 190 violated 2 U.S.C. § 441b(a).

28 April 1980
Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 26, 1985

William H. Schmelling, Esquire
United Steelworkers of America
One East Wacker Drive
Suite 1910
Chicago, Illinois 60601-1980

Re: MUR 1641
United Steelworkers of America, Locals 2944 and 3539

Dear Mr. Schmelling:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, found reason to believe that your clients, Locals 2944 and 3539 of the United Steelworkers of America, violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred by each of your clients. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review are two briefs stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating each of your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosures
Briefs

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
United Steelworkers of America,)
Local 2944) MUR 1641

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Steelworkers of America, Local 2944 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On November 8, 1984, and December 4, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that in December of 1983 it "arranged for the installation of ten additional telephones in its office and conference room" at a cost of $544.19, and that these "telephones were to be and were used as part of an AFL-CIO get-out-the vote effort, in relation to the New Hampshire presidential primary, aimed by the AFL-CIO and the Steelworkers at members of the AFL-CIO and Steelworkers labor organizations and their families." According to the Union, it entered into an agreement with MPC in December 1983 for the use of the Union's facilities and telephones, and MPC used the telephones "virtually every day in January and February, 1984 when such phones were not in use" by the Union. The Union's

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response maintains that no deposits were required, and that it billed MPC for the total installation costs of the ten additional telephones.

In addition, the Union explains that it had no discussions with MPC prior to the Union's decision to have the ten additional telephones installed. In conclusion, the Union states that it was not required by the "Federal Election Campaign Act or by FEC Regulation or Advisory Opinion to include any installation charges in its billing" to MPC, and in light of the fact that the Union elected to include such installation charges in its billing the Union should not be considered to have violated 2 U.S.C. § 441b.

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

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As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were installed by the Union prior to any discussion with MPC concerning MPC's use of the telephones. In addition, no deposit costs were incurred by the Union for the telephones at issue.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where

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the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of deposit or installation costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

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III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe the United Steelworkers of America, Local 2944 violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
United Steelworkers of America,)
Local 3539) MUR 1641

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Steelworkers of America, Local 3539 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On November 8, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that MPC was permitted to use the one telephone which the Union "had in its rented office in January, February, and early March 1984." According to the Union, there was "no deposit or installation expense involved" with MPC's use of the telephone because the telephone "had been in place since the latter 1950's," and any installation costs paid by the Union in the 1950's for the installation "long ago have been amortized by the local union's regular use of that telephone." The Union maintains that "[s]ince there were no calculable installation or deposit costs" for the telephone leased to MPC, the Union's "failure to include the charge for such costs in the amount which

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it billed to [MPC] for telephone usage and space rental did not violate 2 U.S.C. § 441b." It is the further position of the Union that "[n]either the Federal Election Campaign Act itself, the FEC's regulations nor any FEC Advisory Opinion requires that installation costs for a labor organization's telephones be billed to a political committee which may use such a telephone."

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

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The evidence obtained in this matter demonstrates that the telephone at issue was a pre-existing business telephone, installed approximately 25 years before MPC's use. Hence, prior to the installation there were no discussions between the Union and MPC concerning MPC's use of the telephone.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of a union telephone, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for a telephone installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephone. In that there were no costs

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to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, a telephone is installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephone. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe United Steelworkers of America, Local 3539 violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

8504054191

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 26, 1985

Robert A. Goldman, Esquire
Tuveson, Goldman and Nelson
146 West Clark
P.O. Box 1009
Albert Lea, Minnesota 56007

Re: MUR 1641
UBCJA, Local 766

Dear Mr. Goldman:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, found reason to believe that your client, United Brotherhood of Carpenters and Joiners of America, Local 766, violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
United Brotherhood of Carpenters and Joiners of America, Local 766	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Brotherhood of Carpenters and Joiners of America, Local 766 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 16, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that one of its telephones was used by MPC for five days in February 1984 for 12 hours. According to the Union, MPC "used the regular telephone of Local 766 during the non-business hours," and there "was no special installation or special service installed." The Union notes that MPC was billed ($143.56) for "the full amount of the costs of using the said telephone."

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

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The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephone used by MPC was a pre-existing business telephone. Hence, there were no discussions between the Union and MPC prior to the installation of the telephone concerning MPC's use of the telephone.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and

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usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of a union telephone, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for a telephone installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephone. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, a telephone is installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephone. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

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III. General Counsel's Recommendation

Find no probable cause to believe the United Brotherhood of Carpenters and Joiners of America, Local 766 violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 26, 1985

Robert D. Kurnick, Esquire
Sherman, Dunn, Cohen, Leifer & Counts
1125 Fifteenth Street, N.W.
Washington, D.C. 20005

Re: MUR 1641
IBEW, Local 2320
IBEW, Local 292
IBEW, Local 252

Dear Mr. Kurnick:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, determined that there was reason to believe your clients, IBEW Local 2320, IBEW, Local 292, and IBEW Local 252, each violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred by each of your clients. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review are three briefs stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosures
Briefs

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
International Brotherhood of Electrical Workers, Local 2320	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the International Brotherhood of Electrical Workers, Local 2320 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states the "Commission appears to have assumed that IBEW Local 2320 arranged or paid for the installation of telephones for use by [MPC]. That assumption is incorrect." The Union explains that in November and December of 1983 it permitted MPC to use four of its pre-existing telephones pursuant to a lease agreement between the Union and MPC. According to the Union, its business manager "does not specifically recall when these telephones were installed, but they have been in place for at least four years." In conclusion, the Union emphasizes that "[n]o new telephones were installed by Local 2320 and no installation or deposit costs were incurred."

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II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were pre-existing business telephones installed more than four years prior to MPC's use. Hence, prior to the installation of the telephones there were no discussions between the Union and MPC concerning MPC's use of the telephones.

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The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here,

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telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the International Brotherhood of Electrical Workers, Local 2320 violated 2 U.S.C. § 441b(a).

26 April 1984
Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
International Brotherhood of Electrical Workers, Local 292	)	MUR 1641
	)	
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the International Brotherhood of Electrical Workers, Local 292 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 10 and 29, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that six telephones were used by MPC on 11 days in January and February of 1984 for a total of 103.5 hours. According to the Union, the telephones in question were installed in 1982. With respect to the telephones used by MPC, the Union maintains that "[n]o new telephones were installed by Local 292 and no installation or deposit costs were incurred."

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

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The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were existing business telephones installed two years prior to MPC's use. Hence, prior to the installation there were no discussions between the Union and MPC concerning MPC's use of the telephones.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved

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"[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

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III. General Counsel's Recommendation

Find no probable cause to believe the International Brotherhood of Electrical Workers, Local 292 violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
International Brotherhood of Electrical Workers, Local 252	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the International Brotherhood of Electrical Workers, Local 252 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that the "Commission appears to have assumed that IBEW Local 252 arranged or paid for the installation of telephones for use by [MPC]. That assumption is incorrect." The Union explains that between December 1983 and February 1984 MPC used two of the Union's telephones pursuant to a lease agreement. According to the Union, the telephones utilized by MPC were installed in approximately 1968. In conclusion, the Union emphasizes that "[n]o new telephones were installed by Local 252 and no installation or deposit costs were incurred."

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II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were pre-existing business telephones installed 15 years prior to MPC's use. Hence, prior to the installation of the telephones there were no discussions between the Union and MPC concerning MPC's use of the telephones.

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The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes,

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without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the International Brotherhood of Electrical Workers, Local 252 violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 26, 1985

William C. Oldaker, Esquire
Epstein, Becker, Barsody and Green
1140 - 19th Street, N.W.
Washington, D.C. 20036

Re: MUR 1641
AFT; Oklahoma City
Federation of Teachers (AFT)
Local 2309; Massachusetts
Federation of Teachers

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Dear Mr. Oldaker:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, found reason to believe that your clients: American Federation of Teachers; Oklahoma City Federation of Teachers (AFT), Local 2309; and Massachusetts Federation of Teachers violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred by each of your clients. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review are three briefs stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Briefs

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
American Federation of Teachers	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the American Federation of Teachers ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 25, 1984, along with an order to submit written answers. On October 25, 1984, the Union filed a Motion to Reconsider Reason-to-Believe Determination and Quash Order for Written Answers. The Commission determined to deny this motion on November 14, 1984, and the Union was so notified by letter dated November 16, 1984. On December 18, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that MPC used telephones in: Nashua, New Hampshire; Ottawa, Iowa; Enid, Oklahoma; Norman, Oklahoma; South Portland, Maine; and, Washington, D.C. With respect to telephones in Nashua, New Hampshire, the Union states that ten telephones were used by MPC for 2.4 hours per day from December 29, 1983, through March 14, 1984. The Union explains that the telephones were installed in late December 1983 at a cost of $623.25, and that no deposits costs were incurred by the Union in connection with the

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installation. According to the Union, the telephones leased to MPC "were installed for use in ongoing internal activity, such as membership recruitment and partisan communications" to Union members. It is the Union's contention that "no discussions concerning the use or installation of the above-mentioned telephones were held with any agent of MPC prior to the installation of the telephones," and it is noted that "MPC was billed $114.49 for installation, which amounts to 20% of the cost of installation."

As to telephones in Ottawa, Iowa, the Union states that ten telephones were used by MPC for 2-3 hours per day from December 10, 1983, through February 20, 1984. The Union explains that the telephones were installed in December 1983 at a cost of $321.28, and that no deposit costs were incurred by the Union in connection with the installation. According to the Union, the telephones leased to MPC "were installed for use in ongoing, internal AFT activity, such as membership recruitment and partisan communications" to Union members. It is the Union's contention that "no discussions concerning the use or installation of the above-mentioned telephones were held with any agent of MPC prior to the installation of the telephones," and it was noted that MPC was billed $32.12 for installation.

The Union states that ten telephones including four WATTS lines were used by MPC in Enid, Oklahoma for 10 hours on most days from February 9, 1984, through March 14, 1984. The Union explains that these telephones were installed in the beginning of

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February 1984 at a cost of $509.28 (including the initial, prorated monthly service charge), and that no deposit costs were incurred by the Union in connection with the installation. According to the Union, the telephones leased to MPC "were installed for use in ongoing, internal AFT activity such as membership recruitment and partisan communications to AFT members." It is the Union's contention that "no discussions concerning the use or installation of the above-mentioned telephones were held with any agent of MPC prior to the installation of the telephones," and it was noted that "MPC was billed $454.26 for installation costs, including the initial, prorated monthly service charge."

With respect to telephones in Norman, Oklahoma, the Union states that four telephones were used by MPC for seven hours on most days from February 16, 1984, through March 25, 1984. The Union explains that the telephones were installed in February 1984 at a cost of $310.01, and that no deposit costs were incurred by the Union in connection with the installation. According to the Union, the telephones leased to MPC "were installed for use in ongoing, internal activity, such as membership recruitment and partisan communications to AFT members." It is the Union's contention that "no discussions concerning the use or installation of the above-mentioned telephones were held with any agent of MPC prior to the installation of the telephones," and it was explained that "MPC

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was billed $232.51 for installation, which amount to 75% of the cost of the installation."

The Union's response states that two telephones located in Washington, D.C. were used by MPC for a total of 16 hours on January 26, 27, and 30, 1984, and February 1, 1984. The Union explains that the telephones had been installed at national headquarters at least three years ago and, therefore, information concerning the installation cost is not available. In addition, it is explained that no deposit costs were incurred. According to the Union, the telephones leased to MPC were "installed for use in AFT's ordinary and routine affairs." In view of the date of the installation, the Union asserts that there were no discussions with MPC concerning the installation of the telephones prior to the installation, and that it did not bill for any installation costs.

Finally, as to telephones in South Portland, Maine, the Union states that one telephone at the Maine Federation of Teachers Organization Committee was used from September 1, 1983, to October 1, 1983. The Union explains that the telephone was installed several years ago, that information concerning the cost of the installation is not available, and that no deposit costs were incurred by the Union. According to the Union, the telephone leased to MPC was "installed for ordinary and routine use by the Maine Federation of Teachers Organization Committee." In view of the date of the installation the Union states that

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there were no discussions with MPC concerning the installation of the telephone prior to its installation, and that it did not bill MPC for any portion of installation or deposit costs.

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were installed prior to any discussion between the Union and MPC concerning MPC's use of the telephones. To be sure, telephones in Washington, D.C. and South Portland, Maine were installed several years prior to MPC's use. In addition,

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no deposit costs were paid by the Union for the telephones at issue.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC

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as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the American Federation of Teachers violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Oklahoma City Federation) MUR 1641
of Teachers (AFT), Local 2309)

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the the Oklahoma City Federation of Teachers (AFT), Local 2309 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 25, 1984, the Union filed a Motion to Reconsider Reason-to-Believe Determination and Quash Order for Written Answers. The Commission determined to deny this motion on November 14, 1984, and the Union was so notified by letter dated November 16, 1984. On December 17, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that ten telephones were used by MPC on 20 days between the period of January 28, 1984, and March 12, 1984, for a total of 112 hours. According to the Union, five of the telephones were installed sometime in 1982, and the other five telephones were installed on February 7, 1984, at a cost of $492.86. The Union explains that the telephones were installed for routine use in ongoing activities including membership recruitment and partisan

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communications to local members. The Union also stated that "no discussions concerning the use or installation of the above-mentioned telephones were held with any agent of MPC prior to the installation of the telephones." Finally, the Union notes that no deposit costs were incurred in connection with the telephones used by MPC, and that MPC was billed $492.86 for the installation of the five telephones.

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

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The evidence obtained in this matter demonstrates that the above telephones were installed prior to any discussion with MPC concerning MPC's use of the telephones. To be sure, five of the ten telephones used were installed as early as 1982. In addition, no deposit costs were paid by the Union for the telephones at issue.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own

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purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the Oklahoma City Federation of Teachers (AFT), Local 2309 violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Massachusetts Federation of Teachers	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the Massachusets Federation of Teachers ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 26, 1984, the Union filed a Motion to Reconsider Reason-to-Believe Determination and Quash Order for Written Answers. The Commission determined to deny this motion on November 14, 1984, and the Union was so advised by letter dated November 16, 1984. On December 17, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that four telephones were used by MPC on five days between the period of January 17, 1984, and January 26, 1984, for a total of four hours. According to the Union, the telephones were installed on December 23, 1983, at a cost of $208.51. The Union explains that the telephones leased to MPC "were installed for use in ongoing organizing efforts to win collective bargaining rights in locals" which are not represented by the Union, and

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that "no discussions concerning the use or installation of the above-mentioned telephones were held with any agent of MPC prior to the installation of the telephones." Finally, the Union notes that no deposit costs were incurred in connection with the telephones used by MPC, and that MPC was not billed for any portion of the installation costs of the telephones it utilized.

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

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The evidence obtained in this matter demonstrates that the above telephones were installed prior to any discussion between the Union and MPC concerning MPC's use of the telephones. In addition, no deposit costs were paid by the Union for the telephones.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of

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MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the Massachusetts Federation of Teachers violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 26, 1985

William D. Barber, Business Agent
United Union of Roofers, Waterproofers
and Allied Workers, Local 70
5300 West Michigan Avenue
Ypsilanti, Michigan 48197

Re: MUR 1641
United Union of Roofers,
Waterproofers and Allied
Workers, Local 70

Dear Mr. Barber:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, determined that there was reason to believe the United Union of Roofers, Waterproofers and Allied Workers, Local 70, violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
United Union of Roofers, Waterproofers and Allied Workers, Local 70	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Union of Roofers, Waterproofers and Allied Workers, Local 70 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 25, 1984, along with an order to submit written answers. On October 11, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that it made its telephones available to MPC on six days in March 1984, and that on these days MPC made a total of 543 telephone calls. According to the Union, no telephones were installed at the Union expressly for MPC, and all of its telephones were installed ten or more years ago.

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

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The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were installed at least ten years prior to MPC's use. Hence, prior to the installation of the telephones there were no discussions between the Union and MPC concerning MPC's use of the telephones.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and

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usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

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III. General Counsel's Recommendation

Find no probable cause to believe the United Union of Roofers, Waterproofers and Allied Workers, Local 70 violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

April 26, 1985

James B. Coppess, Esquire
Adair, Scanlon and McHugh
Suite 411
1925 K Street, N.W.
Washington, D.C. 20006

Re: MUR 1641
CWA, Local 1365
CWA, Local 4305
CWA, Local 6010

Dear Mr. Coppess:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, determined that there was reason to believe your clients, CWA Local 1365, CWA Local 4305, and CWA Local 6010, each violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred by each of your clients. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review are three briefs stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosures
Briefs

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 1641
Communications Workers of America, Local 1365	)	
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the Communications Workers of America, Local 1365 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 25, 1984, along with an order to submit written answers. On November 1 and November 13, 1984, and January 28 and February 5, 1985, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that MPC used certain telephones installed by the Union in December 1983. According to the Union, it billed MPC $182.75 on July 31, 1984, for its share of installation charges. The Union's response further states that no deposit costs were incurred with respect to the telephones used by MPC. In conclusion, the Union's response states that representatives of the Union "conferred with representatives of MPC prior to installation of the telephones" and that "the conferences concerned arrangements for MPC to use the telephones and to pay MPC's share of the costs associated with the telephones and their use."

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II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence in hand demonstrates that the use of the above telephones by MPC was discussed between the Union and MPC prior to the installation of the telephones. In addition, the Union billed MPC for its share of the installation costs involved, and no deposit costs were paid by the Union for the telephones utilized by MPC.

Under 11 C.F.R. § 114.9(d) a political committee that utilizes a labor organization's telephones is required to

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reimburse for such use in the amount of the normal and usual rental charge which is defined to mean "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution" (11 C.F.R. § 100.7(a)(1)(iii)(B)). Hence, were MPC to install telephones at the same time in the same geographical location as the Union's telephones it would have incurred installation costs. It appears likely that the needs of MPC, relayed to the Union during discussions with MPC, may have influenced the arrangement for the installation of the telephones, as well as the timing of the installation.

Thus, were the Union to absorb the total deposit and installation costs of the telephones installed for the partial benefit of MPC, the Union would have made an in-kind contribution to MPC. In the instant matter, however, no deposit costs were paid by the Union and the Union billed MPC for its share of the installation costs on its own initiative and prior to the Commission's finding of reason to believe a violation occurred by the Union. In view of this circumstance it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendations

Find no probable cause to believe the Communications Workers of America, Local 1365 violated 2 U.S.C. § 441b(a).

26 March 1985
Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Communications Workers of America, Local 4305	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the Communications Workers of America, Local 4305 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On November 1 and November 13, 1984, and January 28, and February 5, 1985, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that MPC used certain telephones installed by the Union in November 1983. According to the Union, it billed MPC $175.65 on March 13, 1984, for its share of installation charges. The Union's response further states that no deposit costs were incurred with respect to the telephones used by MPC. In conclusion, the Union's response explains that representatives of the Union "conferred with representatives of MPC prior to installation of the telephones" and that "the conferences concerned arrangements for MPC to use the telephones and to pay MPC's share of the costs associated with the telephones and their use."

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II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence in hand demonstrates that the use of the Union's telephones was discussed with MPC prior to the installation of the telephones. In addition, the Union billed MPC for its share of the installation costs involved, and no deposit costs were paid by the Union for the telephones utilized by MPC.

Under 11 C.F.R. § 114.9(d) a political committee that utilizes a labor organization's telephones is required to

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reimburse for such use in the amount of the normal and usual rental charge which is defined to mean "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution" (11 C.F.R. § 100.7(a)(1)(iii)(B)). Hence, were MPC to install telephones at the same time in the same geographical location as the Union's telephones it would have incurred installation costs. It appears likely that the needs of MPC, relayed to the Union during discussions with MPC, may have influenced the arrangement for the installation of the telephones, as well as the timing of the installation.

Thus, were the Union to absorb the total deposit and installation costs of the telephones installed for the partial benefit of MPC, the Union would have made an in-kind contribution to MPC. In the instant matter, however, no deposit costs were paid by the Union, and the Union billed MPC for its share of the installation costs on its own initiative and prior to the Commission's finding of reason to believe a violation occurred by the Union. In view of this circumstance it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the Communications Workers of America, Local 4305 violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 1641
Communications Workers of America, Local 6010	)	
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the Communications Workers of America, Local 6010 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 25, 1984, along with an order to submit written answers. On November 1, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that its single business telephone was utilized by MPC "for less than two months during January to March 1984" pursuant to an office leasing arrangement. The Union maintains that during this time the office telephone was available for the Union's use and the Union "continued to use the telephone as it normally had done." According to the Union, the telephone at issue was installed in July 1982 for the Union's "own normal business use" at a cost of $62.76. The Union further maintains that no deposit cost was incurred in connection with the telephone. The Union concludes its response by stating that "[s]ince the telephone was installed for the Local's normal business use more than two years

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ago and has continued to be used for that purpose, even during the short time it was available to MPC, there was no basis for Local 6010 to charge MPC for this installation cost."

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephone was a pre-existing business telephone installed in 1982, two years prior to MPC's use. Hence, prior to the installation of the telephone there were no discussions with MPC concerning MPC's use of the telephone. In addition, no deposits costs were paid by the Union for the telephone at issue.

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The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of a union telephone, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for a telephone installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephone. In that there were no costs to the Union for installation or deposits connected with MPC's

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use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, a telephone is installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephone. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the Communications Workers of America, Local 6010 violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 26, 1985

Patrick White, Esquire
Blake and Uhlig
475 New Brotherhood Building
Eighth and State Avenue
Kansas City, Kansas 66101

Re: MUR 1641
International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers

Dear Mr. White:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, found reason to believe that your client, the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred and take no further action. The Commission may or may not approve the General Counsel's recommendation.

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

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 1641
International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On November 5 and 16, 1984, the Union responded in writing to the Commission's finding and order. On January 25, 1985, and February 8, 1985, counsel for the Union provided additional information by telephone.

In response to the Commission's finding, the Union states that MPC used phones in two locations. In Kansas City, 13 phones were used for 588.5 hours during the period between January 30, 1984, and March 31, 1984. The telephones were installed on January 24, 1984. The cost of the installation of the 13 telephones was $818.14 and the deposit, which was refunded, was $825, according to the Union. The Union explains that MPC was billed on May 5, 1984, for 43.3 per cent of the installation cost based upon its use. In addition, the installation of the

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telephones at this location was discussed with MPC prior to the installation, according to the Union's counsel.

In Wichita, eight telephones were used for 968 hours during the period of March 1, 1984 through April 2, 1984. According to the Union, the cost of the installation was $191.67, and the deposit, which was fully refunded, amounted to $530. The Union explains that the telephones were installed on March 1, 1984, but "[d]ue to the failure of the Local Boilermaker organization in Wichita to provide individuals to carry out the vote solicitation," MPC used the Wichita facility exclusively and was billed on May 5, 1984, for the entire amount of the installation. It is the position of the Union that the "telephone installation was handled in strict accordance with the letter and intent of 11 C.F.R. § 100.7." In addition, the Union's counsel acknowledged that the installation and use of the telephones was discussed with MPC prior to the installation.

II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

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As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

Under 11 C.F.R. § 114.9(d) a political committee that utilizes a labor organization's telephones is required to reimburse for such use in the amount of the normal and usual rental charge which is defined to mean "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution" (11 C.F.R. § 100.7(a)(1)(iii)(B)). Hence, were MPC to install telephones at the same time in the same geographical locations as the Union's telephones MPC would have incurred installation and, perhaps, deposit charges. It also appears likely that the needs of MPC, relayed to the Union during discussions with MPC, may have influenced the arrangement for the installation of the telephones, as well as the timing of the installation. Thus, the absorption of the installation and deposit costs of the telephones installed for the partial benefit of MPC should be considered to constitute an in-kind contribution to MPC from the Union.

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In the instant matter the Union billed MPC for its share of installation costs in Kansas City and for the entire installation charge in Wichita. The Union's billing occurred on its own initiative and prior to the Commission's finding of reason to believe a violation occurred by the Union. Therefore, with respect to installation costs it does not appear that the Union violated 2 U.S.C. § 441b(a). As to deposit costs, however, the record in this matter indicates that the Union did not bill MPC for any portion of these costs and incurred a portion of these costs for the partial benefit of MPC. By so doing the Union made a prohibited contribution to MPC in violation of 2 U.S.C. § 441b(a). Accordingly, it is the recommendation of this Office that the Commission find probable cause to believe the Union violated 2 U.S.C. § 441b(a). It is, however, also the recommendation of this Office that the Commission take no further action against the Union in view of the amount of the deposits that would be attributable to MPC, and the fact that the deposits have been refunded to the Union.

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III. GENERAL COUNSEL'S RECOMMENDATION

Find probable cause to believe the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers violated 2 U.S.C. § 441b(a), and take no further action.

26 April 1985
Date

Charles N. Steele
General Counsel

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 26, 1985

Richard A. Miller, Esquire
Sigal and Miller
1208 Plymouth Building
Minneapolis, MN 55402-1529

Re: MUR 1641
Minneapolis Building and
Construction Trades Council

Dear Mr. Miller:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, found reason to believe that your client, the Minneapolis Building and Construction Trades Council, violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosures
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Minneapolis Building and	)	
Construction Trades Council	)	MUR 1641

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the Minneapolis Building and Construction Trades Council ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 17, and November 14, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that six telephones were used by MPC on January 4, 1984, January 23, 1984, and January 25, 1984, for a total of 22 hours. According to the Union, four of the telephones were installed prior to November 1, 1974, and the other two telephones were installed in December 1977 and December 1978, respectively. The Union's response states that it no longer has records pertaining to the costs of installation and deposits, and that it did not bill MPC for any portion of installation or deposit costs. In view of the date of the installation of the telephones in question, the Union asserts that prior to the installation there were no discussions with MPC concerning the installation or use of the telephones by MPC.

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II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were pre-existing business telephones, four of which were installed ten years prior to MPC's use. In addition, the telephones at issue were installed prior to any discussion between the Union and MPC concerning MPC's use of the telephones.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With

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respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of deposit or installation costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to,

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and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe the Minneapolis Building and Construction Trades Council violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 26, 1985

Carrol P. St. Peter, Business Agent
Bakery, Confectionary and Tobacco Workers
International Union, Local 275
154 State Street
Presque Isle, Maine 04769

Re: MUR 1641
Bakery, Confectionary and Tobacco
Workers International Union,
Local 275

Dear Ms. St. Peter:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, found reason to believe that Local 275 of the Bakery, Confectionary and Tobacco Workers International Union violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Brief

8504054112600

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of Bakery, Confectionary and Tobacco Workers International Union, Local 275	))))	MUR 1641

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the Bakery, Confectionary and Tobacco Workers International Union, Local 275 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 25, 1984, along with an order to submit written answers. On October 15, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that the Union "came to a stand still on October 12, 1983 and as of 16 December 1983 closed its doors as it had no employees to represent." The Union's business agent states that she "was directed to permite [sic] the MPC to use the [Union's] office," but the "office telephones were not used by [MPC] as the AFL-CIO out of Bangor, Maine had telephones installed." The Union's business agent further states that five telephones were used for "a few days in February and March of 1984." According to the Union's business agent, the cost of the installation in February 1984 was billed to the Bakery, Confectionary and Tobacco Workers

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International Union, and the telephones were used "to make local calls to Democratic People."*/ In addition, the business agent explains that she had been asked by MPC "about putting phones in our closed office [and] I told them I'd check with the International Union [and] I did and it was okayed." In conclusion, the Union states that "[n]o money for deposits were used."

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required

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*/ On January 11, 1985, counsel for the Bakery, Confectionary and Tobacco Workers International Union, submitted a letter stating that the phone bills for the telephones described above were paid by the International Union. According to the International Union, "MPC has paid its share of the installation costs and has not failed to pay its share of the deposit costs because there were none."

to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The record in this matter indicates that the telephones belonging to the Union were not utilized by MPC. Hence, the Union did not incur the installation and deposit costs of telephones utilized by MPC. It is, therefore, the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the Bakery, Confectionary and Tobacco Workers International Union, Local 275 violated 2 U.S.C. § 441b(a).

26 April 1985
Date

Charles N. Steele
General Counsel

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Doc #1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

MEMORANDUM TO: THE COMMISSION

FROM: MARJORIE W. EMMONS/JODY C. RANSOM JCR

DATE: APRIL 29, 1985

SUBJECT: MUR 1641 - Memorandum to the Commission dated April 26, 1985 and General Counsel's Briefs

The attached documents are circulated for your information.

ATTACHMENTS:
1) Memo; 2) Brief; 3) Letter

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 26, 1985

MEMORANDUM TO: The Commission

FROM: Charles N. Steele
General Counsel

SUBJECT: MUR 1641

Attached for the Commission's review are 46 briefs stating the position of the General Counsel on the legal and factual issues of the above-captioned matter. A copy of each brief and a letter notifying the respondents of the General Counsel's intent to recommend to the Commission findings of no probable cause to believe, and probable cause to believe and take no further action, were mailed on April 26, 1985. Following receipt of the respondents' replies to these notices, this office will make a further report to the Commission.

Attachments:
Briefs (46) and Letters (18)

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

James B. Coppess, Esquire
Adair, Scanlon and McHugh
Suite 411
1925 K Street, N.W.
Washington, D.C. 20006

Re: MUR 1641
CWA, Local 1365
CWA, Local 4305
CWA, Local 6010

Dear Mr. Coppess:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, determined that there was reason to believe your clients, CWA Local 1365, CWA Local 4305, and CWA Local 6010, each violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred by each of your clients. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review are three briefs stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosures
Briefs

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 1641
Communications Workers of America, Local 1365	)	
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the Communications Workers of America, Local 1365 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 25, 1984, along with an order to submit written answers. On November 1 and November 13, 1984, and January 28 and February 5, 1985, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that MPC used certain telephones installed by the Union in December 1983. According to the Union, it billed MPC $182.75 on July 31, 1984, for its share of installation charges. The Union's response further states that no deposit costs were incurred with respect to the telephones used by MPC. In conclusion, the Union's response states that representatives of the Union "conferred with representatives of MPC prior to installation of the telephones" and that "the conferences concerned arrangements for MPC to use the telephones and to pay MPC's share of the costs associated with the telephones and their use."

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II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence in hand demonstrates that the use of the above telephones by MPC was discussed between the Union and MPC prior to the installation of the telephones. In addition, the Union billed MPC for its share of the installation costs involved, and no deposit costs were paid by the Union for the telephones utilized by MPC.

Under 11 C.F.R. § 114.9(d) a political committee that utilizes a labor organization's telephones is required to

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reimburse for such use in the amount of the normal and usual rental charge which is defined to mean "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution" (11 C.F.R. § 100.7(a)(1)(iii)(B)). Hence, were MPC to install telephones at the same time in the same geographical location as the Union's telephones it would have incurred installation costs. It appears likely that the needs of MPC, relayed to the Union during discussions with MPC, may have influenced the arrangement for the installation of the telephones, as well as the timing of the installation.

Thus, were the Union to absorb the total deposit and installation costs of the telephones installed for the partial benefit of MPC, the Union would have made an in-kind contribution to MPC. In the instant matter, however, no deposit costs were paid by the Union and the Union billed MPC for its share of the installation costs on its own initiative and prior to the Commission's finding of reason to believe a violation occurred by the Union. In view of this circumstance it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendations

Find no probable cause to believe the Communications Workers of America, Local 1365 violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Communications Workers of America, Local 4305	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the Communications Workers of America, Local 4305 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On November 1 and November 13, 1984, and January 28, and February 5, 1985, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that MPC used certain telephones installed by the Union in November 1983. According to the Union, it billed MPC $175.65 on March 13, 1984, for its share of installation charges. The Union's response further states that no deposit costs were incurred with respect to the telephones used by MPC. In conclusion, the Union's response explains that representatives of the Union "conferred with representatives of MPC prior to installation of the telephones" and that "the conferences concerned arrangements for MPC to use the telephones and to pay MPC's share of the costs associated with the telephones and their use."

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II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence in hand demonstrates that the use of the Union's telephones was discussed with MPC prior to the installation of the telephones. In addition, the Union billed MPC for its share of the installation costs involved, and no deposit costs were paid by the Union for the telephones utilized by MPC.

Under 11 C.F.R. § 114.9(d) a political committee that utilizes a labor organization's telephones is required to

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reimburse for such use in the amount of the normal and usual rental charge which is defined to mean "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution" (11 C.F.R. § 100.7(a)(1)(iii)(B)). Hence, were MPC to install telephones at the same time in the same geographical location as the Union's telephones it would have incurred installation costs. It appears likely that the needs of MPC, relayed to the Union during discussions with MPC, may have influenced the arrangement for the installation of the telephones, as well as the timing of the installation.

Thus, were the Union to absorb the total deposit and installation costs of the telephones installed for the partial benefit of MPC, the Union would have made an in-kind contribution to MPC. In the instant matter, however, no deposit costs were paid by the Union, and the Union billed MPC for its share of the installation costs on its own initiative and prior to the Commission's finding of reason to believe a violation occurred by the Union. In view of this circumstance it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the Communications Workers of America, Local 4305 violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 1641
Communications Workers of America, Local 6010	)	
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the Communications Workers of America, Local 6010 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 25, 1984, along with an order to submit written answers. On November 1, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that its single business telephone was utilized by MPC "for less than two months during January to March 1984" pursuant to an office leasing arrangement. The Union maintains that during this time the office telephone was available for the Union's use and the Union "continued to use the telephone as it normally had done." According to the Union, the telephone at issue was installed in July 1982 for the Union's "own normal business use" at a cost of $62.76. The Union further maintains that no deposit cost was incurred in connection with the telephone. The Union concludes its response by stating that "[s]ince the telephone was installed for the Local's normal business use more than two years

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ago and has continued to be used for that purpose, even during the short time it was available to MPC, there was no basis for Local 6010 to charge MPC for this installation cost."

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephone was a pre-existing business telephone installed in 1982, two years prior to MPC's use. Hence, prior to the installation of the telephone there were no discussions with MPC concerning MPC's use of the telephone. In addition, no deposits costs were paid by the Union for the telephone at issue.

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The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of a union telephone, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for a telephone installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephone. In that there were no costs to the Union for installation or deposits connected with MPC's

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use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, a telephone is installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephone. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the Communications Workers of America, Local 6010 violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

William H. Schmelling, Esquire
United Steelworkers of America
One East Wacker Drive
Suite 1910
Chicago, Illinois 60601-1980

Re: MUR 1641
United Steelworkers of America, Locals 2944 and 3539

Dear Mr. Schmelling:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, found reason to believe that your clients, Locals 2944 and 3539 of the United Steelworkers of America, violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred by each of your clients. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review are two briefs stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating each of your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosures
Briefs

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
United Steelworkers of America,)
Local 2944) MUR 1641

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Steelworkers of America, Local 2944 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On November 8, 1984, and December 4, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that in December of 1983 it "arranged for the installation of ten additional telephones in its office and conference room" at a cost of $544.19, and that these "telephones were to be and were used as part of an AFL-CIO get-out-the vote effort, in relation to the New Hampshire presidential primary, aimed by the AFL-CIO and the Steelworkers at members of the AFL-CIO and Steelworkers labor organizations and their families." According to the Union, it entered into an agreement with MPC in December 1983 for the use of the Union's facilities and telephones, and MPC used the telephones "virtually every day in January and February, 1984 when such phones were not in use" by the Union. The Union's

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response maintains that no deposits were required, and that it billed MPC for the total installation costs of the ten additional telephones.

In addition, the Union explains that it had no discussions with MPC prior to the Union's decision to have the ten additional telephones installed. In conclusion, the Union states that it was not required by the "Federal Election Campaign Act or by FEC Regulation or Advisory Opinion to include any installation charges in its billing" to MPC, and in light of the fact that the Union elected to include such installation charges in its billing the Union should not be considered to have violated 2 U.S.C. § 441b.

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

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As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were installed by the Union prior to any discussion with MPC concerning MPC's use of the telephones. In addition, no deposit costs were incurred by the Union for the telephones at issue.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where

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the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of deposit or installation costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

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III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe the United Steelworkers of America, Local 2944 violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
United Steelworkers of America,)
Local 3539) MUR 1641

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Steelworkers of America, Local 3539 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On November 8, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that MPC was permitted to use the one telephone which the Union "had in its rented office in January, February, and early March 1984." According to the Union, there was "no deposit or installation expense involved" with MPC's use of the telephone because the telephone "had been in place since the latter 1950's," and any installation costs paid by the Union in the 1950's for the installation "long ago have been amortized by the local union's regular use of that telephone." The Union maintains that "[s]ince there were no calculable installation or deposit costs" for the telephone leased to MPC, the Union's "failure to include the charge for such costs in the amount which

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it billed to [MPC] for telephone usage and space rental did not violate 2 U.S.C. § 441b." It is the further position of the Union that "[n]either the Federal Election Campaign Act itself, the FEC's regulations nor any FEC Advisory Opinion requires that installation costs for a labor organization's telephones be billed to a political committee which may use such a telephone."

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

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The evidence obtained in this matter demonstrates that the telephone at issue was a pre-existing business telephone, installed approximately 25 years before MPC's use. Hence, prior to the installation there were no discussions between the Union and MPC concerning MPC's use of the telephone.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of a union telephone, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for a telephone installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephone. In that there were no costs

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to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, a telephone is installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephone. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe United Steelworkers of America, Local 3539 violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Robert H. Chanin, General Counsel
Joy L. Koletsky, Esquire
National Education Association
1201 Sixteenth Street, N.W.
Washington, D.C.

Re: MUR 1641
Burlington County Education Association; Clark County Classroom Teachers Association; Massachusetts Teachers Association; MEA-NEA, Local 1

Dear Mr. Chanin and Ms. Koletsky:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, determined that there was reason to believe your clients, the Burlington County Education Association, the Clark County Classroom Teachers Association, the Massachusetts Teachers Association, and MEA-NEA Local 1, each violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred by each of your clients. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review are four briefs stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosures
Briefs

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1641
Burlington County Education Association)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe the Burlington County Education Association ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that eight telephones were used by MPC for 15 days between May 22, 1984, and June 5, 1984. According to the Union, the telephones were installed in September of 1979, and activated on May 16, 1984, at a cost of $61.99. The Union's response contends that no deposits costs were incurred by the Union for the telephones, and that it discussed the activation of the telephones with MPC prior to the activation. In conclusion, the Union's response states that it has billed MPC $61.99 for the activation costs it incurred. According to counsel for the Union, the Union's billing occurred prior to the Commission's finding of reason to believe a violation occurred by the Union.

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II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence in hand demonstrates that no deposit costs were paid by the Union for the telephones utilized by MPC. In addition, the Union billed MPC for its share of the activation costs involved.

Under 11 C.F.R. § 114.9(d) a political committee that utilized a labor organization's telephones is required to reimburse for such use in the amount of the normal and usual rental charge which is defined to mean "the price of those goods

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in the market from which they ordinarily would have been purchased at the time of the contribution" (11 C.F.R. § 100.7(a)(1)(ii)(B)). Hence, were MPC to use telephones at the same time in the same geographical location as the Union's telephones it would have incurred installation or activation costs. It appears likely that the needs of MPC, relayed to the Union during discussions with MPC, may have influenced the arrangement for the activation of the telephones. Thus, were the Union to absorb the total deposit or activation costs of the telephones which partially benefited MPC, the Union would have made an in-kind contribution to MPC. In the instant matter, however, no deposit costs were paid by the Union, and the Union billed MPC for its share of the activation costs on its own initiative and prior to the Commission's finding of reason to believe a violation occurred by the Union. In view of this circumstance it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

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III. GENERAL COUNSEL'S RECOMMENDATIONS

Find no probable cause to believe the Burlington County Education Association violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1641
Clark County Classroom)
Teachers Association)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe the Clark County Classroom Teachers Association ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that six telephones were used by MPC for five days from March 9, 1984, through March 13, 1984. According to the Union, the telephones were installed at least two years previously, and were activated on March 8, 1984, at a cost of was $114.60. The Union's response contends that no deposit costs were incurred by the Union for the telephones. The Union notes that it discussed the activation of the telephones with MPC prior to the activation. In conclusion, the Union's response states that it has billed MPC $114.60 for the activation costs it incurred. According to counsel for the Union, the Union's billing occurred prior to the Commission's finding of reason to believe a violation had occurred by the Union.

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II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence in hand demonstrates that no deposit costs were paid by the Union for the telephones utilized by MPC. In addition, the Union billed MPC for its share of the activation costs involved.

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Under 11 C.F.R. § 114.9(d) a political committee that utilizes a labor organization's telephones is required to reimburse for such use in the amount of the normal and usual rental charge which is defined to mean "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution" (11 C.F.R. § 100.7(a)(1)(iii)(B)). Hence, were MPC to use telephones at the same time in the same geographical locations as the Union's telephones it would have incurred installation or activation costs. It appears likely that the needs of MPC, relayed to the Union during discussions with MPC, may have influenced the arrangement for the activation of the telephones. Thus, were the Union to absorb the total deposit or activation costs of the telephones which partially benefited MPC, the Union would have made an in-kind contribution to MPC. In the instant matter, however, no deposit costs were paid by the Union, and on its own initiative and prior to the Commission's finding of reason to believe a violation occurred by the Union, the Union billed MPC for its share of the activation costs. In view of this circumstance it is the recommendation of this office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

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III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe the Clark County Classroom Teachers Association violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1641
Massachusetts Teachers Association)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe the Massachusetts Teachers Association ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 25, 1984, along with an order to submit written answers. On October 29, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that five telephones were used by MPC during the evenings of February 27, February 29, March 5, March 7, and March 9, 1984; some of the five telephones were used on only two evenings. According to the Union, the various telephones used by MPC were installed in June 1982 (Auburn, MA), February 1982 (Randolph, MA), April 1977 (Raynham, MA), and May 1979 (Boston, MA). The Union notes that the only installation costs known are for telephones in Boston where a complete telephone system was installed in 1979 at a cost of $9,466. In view of the dates of the installations, the Union asserts that prior to the installations there were no discussions with MPC concerning

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MPC's use of the telephones, and that no deposit costs were incurred. Consequently, the Union did not bill MPC for any portion of installation or deposit costs. The Union's response further notes that the telephones "will remain installed and activated for the indefinite future" for use by the Union in the regular course of its business, and, therefore, it is "impossible" to determine MPC's pro-rata share of the cost of installation based on total use.

II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

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The evidence obtained in this matter demonstrates that the above telephones were installed by the Union prior to any discussion with MPC concerning MPC's use of the telephones. In addition, no deposits costs were paid by the Union for the telephones at issue.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of deposit or installation costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of installation or deposit charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs

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to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the Massachusetts Teachers Association violated 2 U.S.C. § 441b(a).

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Date

Charles N. Steele
General Counsel

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1641
MEA-NEA, Local 1)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe MEA-NEA, Local 1 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 25, 1984, along with an order to submit written answers. On October 29, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that three to four telephones were used by MPC from the beginning of January 1984 through March 17, 1984, for a total of 65 hours. The Union maintains that there was no additional installation of telephones for MPC, and that the phones used by MPC were existing telephones installed in December 1982. In view of the date of the installation, the Union asserts that prior to the installation there were no discussions with MPC concerning the use of the telephones by MPC. According to the Union, it did not incur any deposit costs in connection with the telephones, and, consequently, it did not bill MPC for any portion of installation

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or deposit costs. The Union's response further notes that the telephones "will remain installed and activated for the indefinite future" by the Union in the regular course of its business and, therefore, it is "impossible" to determine MPC's pro-rata share of the cost of installation based on total use.

II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were pre-existing, and installed at least a year before MPC's use. Hence, prior to the installation there were no

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discussions between the Union and MPC concerning MPC's use of the telephones. In addition, the Union did not incur any deposit costs in connection with the telephones at issue.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of deposit or installation costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of installation or deposit charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's

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use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe MEA-NEA, Local 1 violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

William D. Barber, Business Agent
United Union of Roofers, Waterproofers
and Allied Workers, Local 70
5300 West Michigan Avenue
Ypsilanti, Michigan 48197

Re: MUR 1641
United Union of Roofers,
Waterproofers and Allied
Workers, Local 70

Dear Mr. Barber:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, determined that there was reason to believe the United Union of Roofers, Waterproofers and Allied Workers, Local 70, violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
United Union of Roofers, Waterproofers and Allied Workers, Local 70	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Union of Roofers, Waterproofers and Allied Workers, Local 70 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 25, 1984, along with an order to submit written answers. On October 11, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that it made its telephones available to MPC on six days in March 1984, and that on these days MPC made a total of 543 telephone calls. According to the Union, no telephones were installed at the Union expressly for MPC, and all of its telephones were installed ten or more years ago.

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

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The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were installed at least ten years prior to MPC's use. Hence, prior to the installation of the telephones there were no discussions between the Union and MPC concerning MPC's use of the telephones.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and

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usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

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III. General Counsel's Recommendation

Find no probable cause to believe the United Union of Roofers, Waterproofers and Allied Workers, Local 70 violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Robert A. Goldman, Esquire
Tuveson, Goldman and Nelson
146 West Clark
P.O. Box 1009
Albert Lea, Minnesota 56007

Re: MUR 1641
UBCJA, Local 766

Dear Mr. Goldman:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, found reason to believe that your client, United Brotherhood of Carpenters and Joiners of America, Local 766, violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
United Brotherhood of Carpenters and Joiners of America, Local 766	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Brotherhood of Carpenters and Joiners of America, Local 766 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 16, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that one of its telephones was used by MPC for five days in February 1984 for 12 hours. According to the Union, MPC "used the regular telephone of Local 766 during the non-business hours," and there "was no special installation or special service installed." The Union notes that MPC was billed ($143.56) for "the full amount of the costs of using the said telephone."

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

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The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephone used by MPC was a pre-existing business telephone. Hence, there were no discussions between the Union and MPC prior to the installation of the telephone concerning MPC's use of the telephone.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and

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usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of a union telephone, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for a telephone installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephone. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, a telephone is installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephone. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

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III. General Counsel's Recommendation

Find no probable cause to believe the United Brotherhood of Carpenters and Joiners of America, Local 766 violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Joseph M. Guzinski, Esquire
Peterson, Goodman, Weiners and
Guzinski
202 Omni Building
1652 Greenview Drive, S.W.
Rochester, MN 55903

Re: MUR 1641
Hotel, Hospital, Restaurant,
and Tavern Employees, Local
21

Dear Mr. Guzinski:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, found reason to believe that your client, Hotel, Hospital, Restaurant and Tavern Employees, Local 21, violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosures
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Hotel, Hospital, Restaurant and Tavern Employees, Local 21	)	MUR 1641

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the Hotel, Hospital, Restaurant and Tavern Employees, Local 21 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 10 and 29, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that three telephones were used on February 10, 13, and 14, 1984, for a total of four and a half hours. According to the Union, the telephones used by MPC were installed in April of 1975 at a cost of $76.70, including deposits. The Union's response states that it did not bill MPC for any portion of the telephone installation or deposit costs. In addition, the Union explains that in view of the date of the installation of the telephones in question, there were no discussions between the Union and MPC prior to the installation concerning the installation or use of the telephones by MPC.

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II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

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The evidence obtained in this matter demonstrates that the above telephones were pre-existing business telephones, installed nine years prior to MPC's use. Hence, the telephones at issue were installed prior to any discussion between the Union and MPC concerning MPC's use of the telephones.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission

determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of deposit or installation costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposits costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes

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the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe the Hotel, Hospital, Restaurant and Tavern Employees, Local 21 violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Michael Hamilton, Esquire
United Paperworkers International Union
Legal Department
P.O. Box 1475
Nashville, TN 37202

Re: MUR 1641
U.P.I.U. Local 75; U.P.I.U. Local 61

Dear Mr. Hamilton:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, found reason to believe that each of your clients, Locals 61 and 75 of the United Paperworkers International Union, violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred by each of your clients. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review are two briefs stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating each of your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosures
Briefs

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
United Paperworkers International) MUR 1641
Union, Local 75)

GENERAL COUNSEL's BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Paperworkers International Union, Local 75 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 23, 1984, November 1, 1984, and December 31, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that on October 20, 1983, the Union entered into an agreement with MPC for the use of the Union's facilities, including ten telephones. According to the Union, the telephones were installed on or about December 15, 1983, at a cost of $405.67 and were used between January 1, 1984, and February 29, 1984, for a total of 585 operator hours. The Union notes that on April 17, 1984, in accordance with its agreement with MPC, it sent MPC an invoice representing all the costs incurred by the Union in connection with MPC's use of the Union's facilities and

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equipment, and totalling $1,727.56. */ A copy of the Union's invoice to MPC was appended to its response which shows that MPC was billed $267.25 for 66% of the installation costs incurred by the Union for the telephones used by MPC. The telephones were installed for the purpose of membership communications and to provide telephone bank service to MPC during the New Hampshire primary, according to the Union. In conclusion, the Union argues that because the Union billed MPC for its use of the Union's facilities and equipment, "there is no basis for believing that Local 75 violated the Act."

II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture,

*/ On December 31, 1984, the Union advised this Office that the Union had recently received payment from MPC in the amount of $1,727.56. In a telephone conversation with the Union's counsel on January 7, 1985, counsel stated that no deposit costs had been incurred by the Union.

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for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence in hand demonstrates that no deposit costs were paid by the Union for the telephones utilized by MPC. In addition, the Union billed MPC for its share of the installation costs involved.

Under 11 C.F.R. § 114.9(d) a political committee that utilizes a labor organization's telephones is required to reimburse for such use in the amount of the normal and usual rental charge which is defined to mean "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution" (11 C.F.R. § 100.7(a)(1)(iii)(B)). Hence, were MPC to install telephones at the same time in the same geographical locations as the Union's telephones it would have incurred installation costs. It appears likely that the needs of MPC, relayed to the Union during discussions with MPC, may have influenced the arrangement for the installation of the telephones, as well as the timing of the installation. Thus, were the Union to absorb the total deposit and installation cost of the telephones installed for the partial benefit of MPC, the Union would have made an in-kind contribution to MPC. In the instant matter, however, no deposits

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were paid by the Union and the Union billed MPC for its share of the installation cost on its own initiative and prior to the Commission's finding of reason to believe a violation occurred by the Union. In view of this circumstance it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe the United Paperworkers International Union, Local 75 violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
United Paperworkers International Union, Local 61	)	MUR 1641
	)	
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Paperworkers International Union, Local 61 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 12 and 25, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that MPC used one of the Union's telephones from February 23 through February 28, 1984, for three hours to make a total of 37 telephone calls. According to the Union, the telephone in question was installed in 1972; the Union has no documentation of the cost of the installation or the amount of the deposit paid. In view of the date of installation, the Union asserts that prior to the installation there were no discussions with MPC concerning MPC's use of the Union's telephone. It is the position of the Union that the "rental fee charged MPC for its use of the

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telephone should be considered more than adequate reimbursement for their proportional share of the installation and deposits costs incurred by the Local Union in 1972."1/

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

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1/ The Union notes that it billed MPC for use of the Union's facilities and telephones on April 12, 1984.

The evidence obtained in this matter demonstrates that the above telephone utilized by MPC was a pre-existing business telephone installed twelve years prior to MPC's use. Hence, prior to the installation of the telephone there were no discussions with MPC concerning MPC's use of the telephone.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of a union telephone, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for a telephone installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of

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MPC's use of the Union's telephone. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, a telephone is installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephone. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the United Paperworkers International Union, Local 61 violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Kathy L. Krieger, Esquire
United Brotherhood of Carpenters and
Joiners of America
101 Constitution Avenue, N.W.
Washington, D.C. 20001

Re: MUR 1641
UBCJA, Local 678
UBCJA, Local 512

Dear Ms. Krieger:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, determined that there was reason to believe your clients, Locals 678 and 512 of the United Brotherhood of Carpenters and Joiners of America, each violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred by each of your clients. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review are two briefs stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosures
Briefs

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
United Brotherhood of Carpenters and Joiners of America, Local 678	)	MUR 1641
	)	
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Brotherhood of Carpenters and Joiners of America, Local 678 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 30, 1984, and November 13, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that in December of 1983 MPC utilized additional telephones that were installed by the Union on the Union's premises. According to the Union, its business agent "recalls that after arrangements had been made with the phone company, but before the phones were put in place, a representative of [MPC] called him and asked whether Local 678 would object to [MPC] using phones on the Local's premises at times when they were not being used by union representatives to contact union members." The Union further

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maintains that "no deposit fees for the telephones were charged to or incurred by the Union," and that the Union has billed MPC for $123.63 as its share of the installation costs.

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that arrangements for the installation of the above telephones were made prior to discussion with MPC concerning MPC's use of the telephones. In addition, no deposit costs were paid by the Union for the telephones at issue.

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The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there is no evidence of any additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are arranged to be installed by a

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labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the United Brotherhood of Carpenter and Joiners of America, Local 678 violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 1641
United Brotherhood of Carpenters and Joiners of America, Local 512	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Brotherhood of Carpenters and Joiners of America, Local 512 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 30, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that it "did not incur any telephone deposit or installation costs in connection with a federal election campaign." According to the Union, the telephones "involved in this matter were existing business telephones that had been installed in 1968, approximately 16 years ago, when Local 512 began occupying its office facility."

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

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The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones had been installed in 1968, fifteen years prior to MPC's use. Hence, prior to the installation of the telephones there were no discussions between the Union and MPC concerning MPC's use of the telephones.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved

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"[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

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III. General Counsel's Recommendation

Find no probable cause to believe the United Brotherhood of Carpenters and Joiners of America, Local 512 violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Robert D. Kurnick, Esquire
Sherman, Dunn, Cohen, Leifer & Counts
1125 Fifteenth Street, N.W.
Washington, D.C. 20005

Re: MUR 1641
IBEW, Local 2320
IBEW, Local 292
IBEW, Local 252

Dear Mr. Kurnick:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, determined that there was reason to believe your clients, IBEW Local 2320, IBEW, Local 292, and IBEW Local 252, each violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred by each of your clients. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review are three briefs stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosures
Briefs

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
International Brotherhood of Electrical Workers, Local 2320	)	MUR 1641
	)	
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the International Brotherhood of Electrical Workers, Local 2320 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states the "Commission appears to have assumed that IBEW Local 2320 arranged or paid for the installation of telephones for use by [MPC]. That assumption is incorrect." The Union explains that in November and December of 1983 it permitted MPC to use four of its pre-existing telephones pursuant to a lease agreement between the Union and MPC. According to the Union, its business manager "does not specifically recall when these telephones were installed, but they have been in place for at least four years." In conclusion, the Union emphasizes that "[n]o new telephones were installed by Local 2320 and no installation or deposit costs were incurred."

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II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were pre-existing business telephones installed more than four years prior to MPC's use. Hence, prior to the installation of the telephones there were no discussions between the Union and MPC concerning MPC's use of the telephones.

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The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here,

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telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the International Brotherhood of Electrical Workers, Local 2320 violated 2 U.S.C. § 441b(a).

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Date

Charles N. Steele
General Counsel

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
International Brotherhood of Electrical Workers, Local 292	)	MUR 1641
	)	
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the International Brotherhood of Electrical Workers, Local 292 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 10 and 29, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that six telephones were used by MPC on 11 days in January and February of 1984 for a total of 103.5 hours. According to the Union, the telephones in question were installed in 1982. With respect to the telephones used by MPC, the Union maintains that "[n]o new telephones were installed by Local 292 and no installation or deposit costs were incurred."

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

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The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were existing business telephones installed two years prior to MPC's use. Hence, prior to the installation there were no discussions between the Union and MPC concerning MPC's use of the telephones.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved

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"[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

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III. General Counsel's Recommendation

Find no probable cause to believe the International Brotherhood of Electrical Workers, Local 292 violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
International Brotherhood of Electrical Workers, Local 252	)	MUR 1641
	)	
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the International Brotherhood of Electrical Workers, Local 252 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that the "Commission appears to have assumed that IBEW Local 252 arranged or paid for the installation of telephones for use by [MPC]. That assumption is incorrect." The Union explains that between December 1983 and February 1984 MPC used two of the Union's telephones pursuant to a lease agreement. According to the Union, the telephones utilized by MPC were installed in approximately 1968. In conclusion, the Union emphasizes that "[n]o new telephones were installed by Local 252 and no installation or deposit costs were incurred."

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II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were pre-existing business telephones installed 15 years prior to MPC's use. Hence, prior to the installation of the telephones there were no discussions between the Union and MPC concerning MPC's use of the telephones.

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The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes,

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without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the International Brotherhood of Electrical Workers, Local 252 violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Robert Matisoff, Esquire
O'Donoghue and O'Donoghue
4748 Wisconsin Avenue, N.W.
Washington, D.C. 20016

Re: MUR 1641
United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the U.S. and Canada, Local 190

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Dear Mr. Matisoff:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, found reason to believe that your client, United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the U.S. and Canada, Local 190, violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosures
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, Local 190	)	MUR 1641

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, Local 190 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 17 and 29, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that two telephones were used by MPC during December 1983 and March 1984. According to the Union, the two telephones were installed in June 1982 as part of a new telephone system; the installation and purchase of the complete system, including other telephones, totalled $2,631.28. Moreover, no deposits were paid "as the phones were purchased" by the Union. The Union further asserts that prior to the installation there were no discussions with MPC concerning the use or installation of the telephones

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ultimately used by MPC. It is the position of the Union that because the telephones at issue were purchased in 1982 "there were no installation costs incurred that could in any reasonable way be attributed to the MPC for its temporary use of two of the Local's telephones during two months in 1984." The Union emphasizes that "even if any amount of the installation costs could rationally be apportioned to the MPC, the amount would be truly de minimis, since the installation costs would have to be spread out into the future over the period the phones are actually in use by the Local," and MPC's "part-time use of the phones during two months would prove to be but a tiny fraction of the total useful life of the phones."

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially

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reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were installed prior to any discussion with MPC concerning MPC's use of the telephones. In addition, no deposits were paid by the Union for the telephones.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of deposit or installation costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own

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purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

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III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, Local 190 violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Margaret E. McCormick, Esquire
AFL-CIO Legal Department
815 Sixteenth Street, N.W.
Washington, D.C. 20006

Re: MUR 1641

Dear Ms. McCormick:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, determined that there was reason to believe your clients, Quad City Federation of Labor, Muskogee and Vicinity Central Labor Council, Keokuk Labor Fraternal Council, Greater Flint AFL-CIO, Maine AFL-CIO, Washington State Labor Council, Ohio AFL-CIO, Hillsborough County Central Labor Council, Wisconsin AFL-CIO, and Trowel Trades Local 14 of the International Union of Bricklayers and Allied Craftsman each violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred by Keokuk Labor Fraternal Council, Greater Flint AFL-CIO, Ohio AFL-CIO, Hillsborough County Central Labor Council, Wisconsin AFL-CIO, and Trowel Trades Local 14 of the International Union of Bricklayers and Allied Craftsman. The Commission may or may not approve the General Counsel's recommendation. In addition, with respect to the Quad City Federation of Labor, Muskogee and Vicinity Central Labor Council, Maine AFL-CIO, and Washington State Labor Council, the Office of General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred and take no further action.

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

Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosures
Briefs

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1641
Keokuk Labor Fraternal Council)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe the Keokuk Labor Fraternal Council ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On November 1, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that only one telephone was used by MPC, which is the Union's business telephone. According to the Union, the telephone was installed over 15 years ago and has been used continuously ever since. The Union maintains that "any installation and deposit costs for the phone used by [MPC] have long since been amortized by respondent's business use of that phone."

II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

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The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include a direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephone was pre-existing and installed 15 years prior to MPC's use. Hence, prior to the installation of the telephone there were no discussions with MPC concerning MPC's use of the telephone.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and

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usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of deposit or installation costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of a union telephone, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for a telephone installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephone. In that there were no costs to the Union for installation or deposit connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, a telephone is installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephone. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

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III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe the Keokuk Labor Fraternal Council violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1641
Greater Flint AFL-CIO)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe the Greater Flint AFL-CIO ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On November 2, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that MPC used 12 telephones, all of which were installed in 1980 or before, during the period of March 13, 1984, through May 10, 1984. The Union notes that all of the phones "have been in service since the time of installation up to and including" the date of its response.

II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include a direct or indirect payment,

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loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were pre-existing and installed at least four years prior to MPC's use. Hence, prior to the installation of the telephones there were no discussions with MPC concerning MPC's use of the telephones.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to

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conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of deposit or installation costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of installation or deposit charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

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III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe the Greater Flint AFL-CIO violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1641
Ohio AFL-CIO)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe the Ohio AFL-CIO ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 1 and 14, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that 18 telephones, installed on April 6, 1984, were used by MPC for a total of seven days (April 28, 1984, to May 5, 1984). According to the Union, there were no discussions between the Union and MPC concerning the installation or use of the telephones prior to the installation, and no deposit costs were incurred by the Union. The Union's response concludes that it has billed MPC $442.10 as its pro rata share of the installation costs of the telephones it utilized.

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II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were installed by the Union prior to any discussion with MPC concerning MPC's use of the telephones. In addition, there were no deposit costs paid by the Union for the telephones at issue.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With

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respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of installation or deposit charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to,

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and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe the Ohio AFL-CIO violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Hillsborough County Central Labor Council	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe the Hillsborough County Central Labor Council ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 30 and November 14, 1984, the Union responded to the Commission's finding and order.

The response of the Union states that six telephones, installed on January 20, 1984, were used by MPC for three hours a day for the period from February 22, 1984, to March 12, 1984. According to the Union, there were no discussions between the Union and MPC prior to the installation, and no deposit costs were incurred by the Union. The Union's response concludes that the installation costs for the six telephones totalled $328.62 and "[w]hen that amount is pro-rated by the 56 days the phones were in service the result is a daily installation cost of $5.87." Moreover, since MPC "only used the phones 3 hours per day, [MPC's] share of the daily installation cost would amount to

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only $2.19 which, multiplied by 14 -- the number of days [MPC] used the phones -- amounts to $30.66." Therefore, it is the position of the Union that the costs at issue are de minimus.

II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were installed by the Union prior to any discussion with MPC concerning MPC's use of the telephones. In addition, there were no deposit costs paid by the Union for the telephones at issue.

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The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of installation or deposit charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes,

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without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe the Hillsborough County Central Labor Council violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1641
Wisconsin AFL-CIO)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe the Wisconsin AFL-CIO ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29 and November 14, 1984, the Union responded to the Commission's finding and order.

The response of the Union states that a total of 25 telephones, installed on March 9, 1984, were utilized by MPC from March 10, 1984, through April 12, 1984, at two locations. According to the Union, there were no discussions between the Union and MPC about the installation or use of telephones prior to the installation, and no deposit costs were incurred by the Union. The Union's response concludes that it has billed MPC $224.33 as its pro rata share of the installation costs of the telephones it utilized.

II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

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The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were installed prior to any discussion between the Union and MPC concerning MPC's use of the telephones. In addition, there were no deposit costs paid by the Union for the telephones at issue.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved

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"[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of deposit or installation costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of installation or deposit charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

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III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe the Wisconsin AFL-CIO violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Trowel Trades Local 14, International Union of Bricklayers and Allied Craftsmen	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe Trowel Trades Local 14, International Union of Bricklayers and Allied Craftsmen ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that two telephones were used by MPC. According to the Union, the two telephones were existing business telephones which were installed in 1968 and 1982, respectively. The Union maintains that it has used the telephones continuously since their installation. It is the position of the Union that "any installation or deposit costs connected with respondent's telephones have long since been amortized by respondent's business use of the telephones," and that "since there are no calculable deposit or installation costs for the telephones which

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respondent leased" to MPC, the Union's failure to include those costs in the amount which the Local billed to the campaign for phone usage and space did not violate 2 U.S.C. § 441b(a)."

II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were pre-existing business telephones, one of which was installed at least 15 years prior to MPC's use. Hence, prior to the installation of the telephones there were no discussions between the Union and MPC concerning MPC's use of telephones.

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The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of deposit or installation costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes,

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without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe Trowel Trades Local 14, International Union of Bricklayers and Allied Craftsmen violated 2 U.S.C. § 441b(a).

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Date

Charles N. Steele
General Counsel

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Quad City Federation of Labor, AFL-CIO	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe the Quad City Federation of Labor, AFL-CIO ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On November 1 and 14, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that 15 telephones, installed on December 10, 1983, were used by MPC intermittently during the period of December 15, 1983, until February 12, 1984. According to the Union, no deposit costs were incurred for the telephones, and the Union has billed MPC $431.10 as its pro rata share of the installation costs. The Union response also states that prior to the installation of the phones, the Union's president discussed the matter with a representative of MPC, and the "substance of that conversation was that respondent intended to install telephones in Davenport, Iowa, and that the campaign was interested in leasing those phones when not in use by the AFL-CIO."

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II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were installed subsequent to a discussion between MPC and the Union concerning MPC's use of the Union's telephones. No deposit costs, however, were apparently paid by the Union for the telephones at issue.

Under 11 C.F.R. § 114.9(d) a political committee that utilizes a labor organization's telephones is required to reimburse for such use in the amount of the normal and usual rental charge which is defined to mean "the price of those goods in the market from which they ordinarily would have been

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purchased at the time of the contribution" (11 C.F.R. § 100.7(a)(1)(iii)(B)). Hence, were MPC to install telephones at the same time in the same geographical locations as the Union's telephones MPC would have incurred installation charges. It also appears likely that the needs of MPC, relayed to the Union during discussions with MPC, may have influenced the arrangement for the installation of the telephones, as well as the timing of the installation. Thus, although no deposit costs were paid by the Union, the absorption of the installation costs of the telephones installed for the partial benefit of MPC should be considered to constitute an in-kind contribution to MPC from the Union.

Although the Union has now billed MPC $431.10 as its share of the installation costs, this billing does not vitiate the violation. Such billing is viewed only as a mitigating factor. There is no evidence in the record that the Union billed for these costs on its own initiative prior to the Commission's finding of reason to believe a violation occurred by the Union. Indeed, as late as August 20, 1984, MPC stated that it did not pay any installation costs associated with its use of the Union's telephones.

Accordingly, it is the recommendation of this Office that the Commission find probable cause to believe the Union violated 2 U.S.C. § 441b(a) by making an in-kind contribution to MPC in connection with the installation costs of the above telephones. It is, however, the further recommendation of this Office that

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the Commission take no further action against the Union in view of the amount at issue, and that such amount has been billed to MPC.

III. GENERAL COUNSEL'S RECOMMENDATION

Find probable cause to believe the Quad City Federation of Labor, AFL-CIO violated 2 U.S.C. § 441b(a) and take no further action.

Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 1641
Muskogee and Vicinity Central Labor Council, AFL-CIO	)	
	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe the Muskogee and Vicinity Central Labor Council, AFL-CIO ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On November 1 and 15, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that eight telephones were used by MPC during the period of December 1983 through March 17, 1984. According to the Union's response, seven of the eight telephones were installed in December 1983 and the eighth phone was installed more than five years before. The Union notes that prior to the installation of the seven phones its president discussed the matter with an MPC local representative and the "substance of that conversation was that respondent intended to install seven phones and that the campaign was interested in leasing those phones when not in use" by the Union. The Union contends that no deposit costs were incurred in connection with the telephones, and that it has

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billed MPC $422.11 as its pro-rata share of the installation of the seven telephones. In addition, the Union notes that it did not bill MPC for any share of the installation costs of its business telephone since MPC's share of those costs "is clearly de minimus."

II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include a direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

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The evidence obtained in this matter demonstrates that seven of the above telephones were installed subsequent to a discussion between MPC and the Union concerning MPC's use of the Union's telephones. No deposit costs, however, were apparently paid by the Union for the telephones at issue.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of deposit or installation costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of installation or deposit charges initially paid by a union for telephones installed solely for its own purposes. With respect to the Union's telephone that was installed five years before MPC's use and prior to any discussion between the Union and MPC concerning MPC's use of the telephone,

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the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by the Union for a telephone installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephone. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, a telephone is installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephone.

As to the seven telephones installed after discussion with MPC, the Union was required to bill MPC for a portion of the resulting installation costs based upon use. Under 11 C.F.R. § 114.9(d) a political committee that utilizes a labor organization's telephones is required to reimburse for such use in the amount of the normal and usual rental charge which is defined to mean "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution" (11 C.F.R. § 100.7(a)(1)(iii)(B)). Hence, were MPC to install telephones at the same time in the same geographical locations as the Union's telephones MPC would have

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incurred installation charges. It also appears likely that the needs of MPC, relayed to the Union during discussions with MPC, may have influenced the arrangement for the installation of the telephones, as well as the timing of the installation. Although no deposit costs were paid by the Union, the absorption of the installation costs of the telephones installed for the partial benefit of MPC should be considered to constitute an in-kind contribution to MPC from the Union.

Although the Union has now billed MPC $422.11 as its share of the installation costs, this billing does not vitiate the violation. Such billing is viewed only as a mitigating factor. There is no evidence in the record that the Union billed for these costs on its own initiative prior to the Commission's finding of reason to believe a violation occurred. Indeed, as late as August 20, 1984, MPC stated that it did not pay any installation costs associated with its use of the Union's telephones.

Accordingly, it is the recommendation of this Office that the Commission find probable cause to believe the Union violated 2 U.S.C. § 441b(a) by making an in-kind contribution to MPC in connection with the installation costs of the above seven telephones. It is, however, the further recommendation of this Office that the Commission take no further action against the Union in view of the amount at issue, and that such amount has been billed to MPC.

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III. GENERAL COUNSEL'S RECOMMENDATION

Find probable cause to believe the Muskogee and Vicinity Central Labor Council, AFL-CIO violated 2 U.S.C. § 441b(a) and take no further action.

Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1641
Maine AFL-CIO)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe the Maine AFL-CIO ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On November 1 and 14, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that MPC used four WATS lines, installed on or about January 15, 1984, during the period of January 16, 1984, through March 5, 1984. According to the Union, a representative of the Union discussed the installation of the telephone lines with MPC prior to the installation and MPC expressed its interest in leasing the lines when they were not in use by the Union. The Union notes that no deposit costs were incurred by the Union. The Union's response concludes that it has billed MPC $46.89 as its pro rata share of the installation costs of the telephones it utilized.

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II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephone lines were installed subsequent to a discussion between MPC and the Union concerning MPC's use of the Union's telephones. No deposit costs, however, were paid by the Union for the telephones at issue.

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Under 11 C.F.R. § 114.9(d) a political committee that utilizes a labor organization's telephones is required to reimburse for such use in the amount of the normal and usual rental charge which is defined to mean "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution" (11 C.F.R. § 100.7(a)(1)(iii)(B)). Hence, were MPC to install telephone lines at the same time in the same geographical locations as the Union's telephones MPC would have incurred installation charges. It also appears likely that the needs of MPC, relayed to the Union during discussions with MPC, may have influenced the arrangement for the installation of the telephone lines, as well as the timing of the installation. Although no deposit costs were paid by the Union, the absorption of the installation cost of the telephone lines installed for the partial benefit of MPC should be considered to constitute an in-kind contribution to MPC from the Union.

Although the Union has now billed MPC $46.89 as its share of the installation cost, this billing does not vitiate the violation. Such billing is viewed only as a mitigating factor. There is no evidence in the record that the Union billed for these costs on its own initiative prior to the Commission's finding of reason to believe a violation occurred. Indeed, as late as August 20, 1984, MPC stated that it did not pay any installation costs associated with its use of the Union's telephones.

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Accordingly, it is the recommendation of this Office that the Commission find probable cause to believe the Union violated 2 U.S.C. § 441b(a) by making an in-kind contribution to MPC in connection with the installation costs of the above telephone lines. It is, however, the further recommendation of this Office that the Commission take no further action against the Union in view of the minimal amount at issue, and that such amount has been billed to MPC.

III. GENERAL COUNSEL'S RECOMMENDATION

Find probable cause to believe the Maine AFL-CIO violated 2 U.S.C. § 441b(a) and take no further action.

Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Washington State Labor Council) MUR 1641

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe the Washington State Labor Council, AFL-CIO ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On November 1 and 14, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that a number of telephones, installed on December 13, 1983, were used by MPC at eight locations throughout the state at various times. The Union notes that with the exception of telephones in Everett, Washington, no deposit costs were incurred for the telephones used by MPC, and that in Everett the deposit was credited in full towards the Union's first bill. According to the Union, its COPE Coordinator discussed the planned installation of telephones at eight locations with MPC, and MPC indicated that they were interested in leasing those phones when not in use by the Union. The Union's response concludes that it has billed MPC "$2,167.30 as its pro-rata share of the

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installation costs" of the telephones used by MPC.

II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were installed subsequent to a discussion between MPC and the Union concerning MPC's use of the Union's telephone. In addition, a deposit was paid by the Union for telephones in one of the seven locations involved.

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Under 11 C.F.R. § 114.9(d) a political committee that utilizes a labor organization's telephones is required to reimburse for such use in the amount of the normal and usual rental charge which is defined to mean "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution" (11 C.F.R. § 100.7(a)(1)(iii)(B)). Hence, were MPC to install telephones at the same time in the same geographical locations as the Union's telephones MPC would have incurred installation and, perhaps, deposit charges. It also appears likely that the needs of MPC, relayed to the Union during discussions with MPC, may have influenced the arrangement for the installation of the telephones, as well as the timing of the installation. Thus, although no deposits costs were paid by the Union in seven of the eight locations, the absorption of the installation and one deposit cost of the telephones installed for the partial benefit of MPC should be considered to constitute an in-kind contribution to MPC from the Union.

Although the Union has now billed MPC $2,167.30 as its share of the installation costs, this billing does not vitiate the violation. Such billing is viewed only as a mitigating factor. There is no evidence in the record that the Union billed for these costs on its own initiative prior to the Commission's finding of reason to believe a violation occurred. Indeed, as late as August 20, 1984, MPC stated that it did not pay any installation costs associated with its use of the Union's telephones.

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Accordingly, it is the recommendation of this Office that the Commission find probable cause to believe the Union violated 2 U.S.C. § 441b(a) by making an in-kind contribution to MPC in connection with the installation and deposit costs of the above telephones. It is, however, the further recommendation of this Office that the Commission take no further action against the Union in view of the fact that the Union has billed MPC for its share of the installation costs at issue and the deposit paid by the Union was immediately credited back to the Union.

III. GENERAL COUNSEL'S RECOMMENDATION

Find probable cause to believe the Washington State Labor Council violated 2 U.S.C. § 441b(a) and take no further action.

Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Richard A. Miller, Esquire
Sigal and Miller
1208 Plymouth Building
Minneapolis, MN 55402-1529

Re: MUR 1641
Minneapolis Building and
Construction Trades Council

Dear Mr. Miller:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, found reason to believe that your client, the Minneapolis Building and Construction Trades Council, violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosures
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Minneapolis Building and)
Construction Trades Council) MUR 1641

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the Minneapolis Building and Construction Trades Council ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 17, and November 14, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that six telephones were used by MPC on January 4, 1984, January 23, 1984, and January 25, 1984, for a total of 22 hours. According to the Union, four of the telephones were installed prior to November 1, 1974, and the other two telephones were installed in December 1977 and December 1978, respectively. The Union's response states that it no longer has records pertaining to the costs of installation and deposits, and that it did not bill MPC for any portion of installation or deposit costs. In view of the date of the installation of the telephones in question, the Union asserts that prior to the installation there were no discussions with MPC concerning the installation or use of the telephones by MPC.

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II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were pre-existing business telephones, four of which were installed ten years prior to MPC's use. In addition, the telephones at issue were installed prior to any discussion between the Union and MPC concerning MPC's use of the telephones.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With

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respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of deposit or installation costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to,

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and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe the Minneapolis Building and Construction Trades Council violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

William C. Oldaker, Esquire
Epstein, Becker, Barsody and Green
1140 - 19th Street, N.W.
Washington, D.C. 20036

Re: MUR 1641
AFT; Oklahoma City
Federation of Teachers (AFT)
Local 2309; Massachusetts
Federation of Teachers

Dear Mr. Oldaker:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, found reason to believe that your clients: American Federation of Teachers; Oklahoma City Federation of Teachers (AFT), Local 2309; and Massachusetts Federation of Teachers violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred by each of your clients. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review are three briefs stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Briefs

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
American Federation of Teachers	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the American Federation of Teachers ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 25, 1984, along with an order to submit written answers. On October 25, 1984, the Union filed a Motion to Reconsider Reason-to-Believe Determination and Quash Order for Written Answers. The Commission determined to deny this motion on November 14, 1984, and the Union was so notified by letter dated November 16, 1984. On December 18, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that MPC used telephones in: Nashua, New Hampshire; Ottawa, Iowa; Enid, Oklahoma; Norman, Oklahoma; South Portland, Maine; and, Washington, D.C. With respect to telephones in Nashua, New Hampshire, the Union states that ten telephones were used by MPC for 2.4 hours per day from December 29, 1983, through March 14, 1984. The Union explains that the telephones were installed in late December 1983 at a cost of $623.25, and that no deposits costs were incurred by the Union in connection with the

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installation. According to the Union, the telephones leased to MPC "were installed for use in ongoing internal activity, such as membership recruitment and partisan communications" to Union members. It is the Union's contention that "no discussions concerning the use or installation of the above-mentioned telephones were held with any agent of MPC prior to the installation of the telephones," and it is noted that "MPC was billed $114.49 for installation, which amounts to 20% of the cost of installation."

As to telephones in Ottawa, Iowa, the Union states that ten telephones were used by MPC for 2-3 hours per day from December 10, 1983, through February 20, 1984. The Union explains that the telephones were installed in December 1983 at a cost of $321.28, and that no deposit costs were incurred by the Union in connection with the installation. According to the Union, the telephones leased to MPC "were installed for use in ongoing, internal AFT activity, such as membership recruitment and partisan communications" to Union members. It is the Union's contention that "no discussions concerning the use or installation of the above-mentioned telephones were held with any agent of MPC prior to the installation of the telephones," and it was noted that MPC was billed $32.12 for installation.

The Union states that ten telephones including four WATTS lines were used by MPC in Enid, Oklahoma for 10 hours on most days from February 9, 1984, through March 14, 1984. The Union explains that these telephones were installed in the beginning of

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February 1984 at a cost of $509.28 (including the initial, prorated monthly service charge), and that no deposit costs were incurred by the Union in connection with the installation. According to the Union, the telephones leased to MPC "were installed for use in ongoing, internal AFT activity such as membership recruitment and partisan communications to AFT members." It is the Union's contention that "no discussions concerning the use or installation of the above-mentioned telephones were held with any agent of MPC prior to the installation of the telephones," and it was noted that "MPC was billed $454.26 for installation costs, including the initial, prorated monthly service charge."

With respect to telephones in Norman, Oklahoma, the Union states that four telephones were used by MPC for seven hours on most days from February 16, 1984, through March 25, 1984. The Union explains that the telephones were installed in February 1984 at a cost of $310.01, and that no deposit costs were incurred by the Union in connection with the installation. According to the Union, the telephones leased to MPC "were installed for use in ongoing, internal activity, such as membership recruitment and partisan communications to AFT members." It is the Union's contention that "no discussions concerning the use or installation of the above-mentioned telephones were held with any agent of MPC prior to the installation of the telephones," and it was explained that "MPC

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was billed $232.51 for installation, which amount to 75% of the cost of the installation."

The Union's response states that two telephones located in Washington, D.C. were used by MPC for a total of 16 hours on January 26, 27, and 30, 1984, and February 1, 1984. The Union explains that the telephones had been installed at national headquarters at least three years ago and, therefore, information concerning the installation cost is not available. In addition, it is explained that no deposit costs were incurred. According to the Union, the telephones leased to MPC were "installed for use in AFT's ordinary and routine affairs." In view of the date of the installation, the Union asserts that there were no discussions with MPC concerning the installation of the telephones prior to the installation, and that it did not bill for any installation costs.

Finally, as to telephones in South Portland, Maine, the Union states that one telephone at the Maine Federation of Teachers Organization Committee was used from September 1, 1983, to October 1, 1983. The Union explains that the telephone was installed several years ago, that information concerning the cost of the installation is not available, and that no deposit costs were incurred by the Union. According to the Union, the telephone leased to MPC was "installed for ordinary and routine use by the Maine Federation of Teachers Organization Committee." In view of the date of the installation the Union states that

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there were no discussions with MPC concerning the installation of the telephone prior to its installation, and that it did not bill MPC for any portion of installation or deposit costs.

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were installed prior to any discussion between the Union and MPC concerning MPC's use of the telephones. To be sure, telephones in Washington, D.C. and South Portland, Maine were installed several years prior to MPC's use. In addition,

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no deposit costs were paid by the Union for the telephones at issue.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC

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as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the American Federation of Teachers violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Oklahoma City Federation) MUR 1641
of Teachers (AFT), Local 2309)

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the the Oklahoma City Federation of Teachers (AFT), Local 2309 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 25, 1984, the Union filed a Motion to Reconsider Reason-to-Believe Determination and Quash Order for Written Answers. The Commission determined to deny this motion on November 14, 1984, and the Union was so notified by letter dated November 16, 1984. On December 17, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that ten telephones were used by MPC on 20 days between the period of January 28, 1984, and March 12, 1984, for a total of 112 hours. According to the Union, five of the telephones were installed sometime in 1982, and the other five telephones were installed on February 7, 1984, at a cost of $492.86. The Union explains that the telephones were installed for routine use in ongoing activities including membership recruitment and partisan

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communications to local members. The Union also stated that "no discussions concerning the use or installation of the above-mentioned telephones were held with any agent of MPC prior to the installation of the telephones." Finally, the Union notes that no deposit costs were incurred in connection with the telephones used by MPC, and that MPC was billed $492.86 for the installation of the five telephones.

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

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The evidence obtained in this matter demonstrates that the above telephones were installed prior to any discussion with MPC concerning MPC's use of the telephones. To be sure, five of the ten telephones used were installed as early as 1982. In addition, no deposit costs were paid by the Union for the telephones at issue.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own

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purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the Oklahoma City Federation of Teachers (AFT), Local 2309 violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Massachusetts Federation of Teachers	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the Massachusets Federation of Teachers ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 26, 1984, the Union filed a Motion to Reconsider Reason-to-Believe Determination and Quash Order for Written Answers. The Commission determined to deny this motion on November 14, 1984, and the Union was so advised by letter dated November 16, 1984. On December 17, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that four telephones were used by MPC on five days between the period of January 17, 1984, and January 26, 1984, for a total of four hours. According to the Union, the telephones were installed on December 23, 1983, at a cost of $208.51. The Union explains that the telephones leased to MPC "were installed for use in ongoing organizing efforts to win collective bargaining rights in locals" which are not represented by the Union, and

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that "no discussions concerning the use or installation of the above-mentioned telephones were held with any agent of MPC prior to the installation of the telephones." Finally, the Union notes that no deposit costs were incurred in connection with the telephones used by MPC, and that MPC was not billed for any portion of the installation costs of the telephones it utilized.

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

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The evidence obtained in this matter demonstrates that the above telephones were installed prior to any discussion between the Union and MPC concerning MPC's use of the telephones. In addition, no deposit costs were paid by the Union for the telephones.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of

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MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the Massachusetts Federation of Teachers violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Alan V. Reuther, Assistant General Counsel
International Union, United Automobile,
Aerospace and Agricultural Implement
Workers of America, UAW
1757 N Street, N.W.
Washington, D.C. 20036

Re: MUR 1641
Muskegon County
UAW CAP Council

Dear Mr. Reuther:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, found reason to believe that your client, the Muskegon County UAW CAP Council, violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosures
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1641
Muskegon County UAW)
CAP Council)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe the Muskegon County UAW CAP Council ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that four of its telephones were used by MPC from March 12, 1984, through March 16, 1984, for a total of 50 telephone hours which "represented 10 per cent of the total time the telephones were used during the month of March." According to the Union, the telephones were installed on January 31, 1984, for the purpose of conducting "a program of internal communications directed at members of the CAP Council and their families in connection with the 1984 elections," and to conduct "similar internal communication programs in connection with future election campaigns and other activities." The Union notes that the

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telephones were "used by the CAP Council during the months of February and March 1984, and again in September and October 1984, in connection with this program," and that the Union "plans to use the telephones to conduct similar internal communications programs in the future."

The cost of installing all ten telephones totalled $503.36, including "$251.42 in one-time-only charges for installing permanent wiring and jacks," according to the Union. The Union maintains that the "charges for this permanent capital improvement will not have to be incurred again by the CAP Council in connection with future uses of the telephones," and that it did not pay any deposit costs in connection with the telephones. Finally, the Union's response claims that it did not discuss the installation or use of the telephones with MPC prior to the installation of the telephones.

It is the position of the Union that "as a matter of law, telephone installation and deposit costs do not have to be included in calculating the normal and usual rental charge for the use of corporate and union telephones." Moreover, the Union argues that in "various advisory opinions and compliance actions" the Commission has never given "any indication that any portion of the installation or deposit costs associated with the telephones would have to be reimbursed by the candidate or political committee". The Union argues that by taking its

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present position with respect to installation and deposit costs, "the Commission in effect is attempting to adopt a new interpretation of the term 'normal and usual rental charge,' and thus is trying to modify sections 114.9(d) and 100.7(a)(1)(iii)(B) of its regulations." According to the Union, "[t]his attempt to use a compliance action to circumvent the procedures set forth in sections 437f(b) and 438(d) of the FECA is clearly improper." Moreover, the Union argues that "it is well established that the courts will not honor an agency's interpretation of its own regulations where that interpretation previously was not adequately articulated by the agency, or is inconsistent with earlier pronouncements by the agency." Assuming arguendo that it should have billed MPC for a portion of the installation costs at issue, the Union maintains that the portion "which could even arguably be attributed to the MPC would be extremely small" because the costs must be amortized over time.

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II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any

person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that all of the above telephones were installed prior to any discussion with MPC concerning MPC's use of the telephones at issue. In addition, the Union did not pay any deposit costs for the telephones.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market,

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including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of deposit or installation costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

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III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe the Muskegon County UAW CAP Council violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Carrol P. St. Peter, Business Agent
Bakery, Confectionary and Tobacco Workers
International Union, Local 275
154 State Street
Presque Isle, Maine 04769

Re: MUR 1641
Bakery, Confectionary and Tobacco
Workers International Union,
Local 275

Dear Ms. St. Peter:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, found reason to believe that Local 275 of the Bakery, Confectionary and Tobacco Workers International Union violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of Bakery, Confectionary and Tobacco Workers International Union, Local 275	))))	MUR 1641

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the Bakery, Confectionary and Tobacco Workers International Union, Local 275 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 25, 1984, along with an order to submit written answers. On October 15, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that the Union "came to a stand still on October 12, 1983 and as of 16 December 1983 closed its doors as it had no employees to represent." The Union's business agent states that she "was directed to permite [sic] the MPC to use the [Union's] office," but the "office telephones were not used by [MPC] as the AFL-CIO out of Bangor, Maine had telephones installed." The Union's business agent further states that five telephones were used for "a few days in February and March of 1984." According to the Union's business agent, the cost of the installation in February 1984 was billed to the Bakery, Confectionary and Tobacco Workers

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International Union, and the telephones were used "to make local calls to Democratic People."*/ In addition, the business agent explains that she had been asked by MPC "about putting phones in our closed office [and] I told them I'd check with the International Union [and] I did and it was okayed." In conclusion, the Union states that "[n]o money for deposits were used."

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required

*/ On January 11, 1985, counsel for the Bakery, Confectionary and Tobacco Workers International Union, submitted a letter stating that the phone bills for the telephones described above were paid by the International Union. According to the International Union, "MPC has paid its share of the installation costs and has not failed to pay its share of the deposit costs because there were none."

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to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The record in this matter indicates that the telephones belonging to the Union were not utilized by MPC. Hence, the Union did not incur the installation and deposit costs of telephones utilized by MPC. It is, therefore, the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the Bakery, Confectionary and Tobacco Workers International Union, Local 275 violated 2 U.S.C. § 441b(a).

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Date

Charles N. Steele
General Counsel

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Larry P. Weinberg, Esquire
Kirschner, Weinberg, Dempsey, Walters
and Willig
1100 17th Street, N.W.
Suite 800
Washington, D.C. 20036

Re: MUR 1641
AFSCME District Council 37,
Local 372

Dear Mr. Weinberg:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, found reason to believe that your client, AFSCME District Council 37, Local 372, violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosures
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
AFSCME District Council 37, Local 372	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe AFSCME District Council 37, Local 372 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29, 1984, and November 5, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding, the Union states that MPC used seven telephones on May 30, 1984, fourteen telephones on May 31, 1984, six telephones on June 2, 1984, eighteen telephones on June 4, 1984, and eighteen telephones on June 5, 1984, from 6 p.m. until 9 p.m. on each day. According to the Union, the telephones used by MPC were installed on or about March 15, 1983, for various purposes including general communications with members. The Union's response maintains that it is unable to determine the cost of installing the telephones used by MPC, and that it does not appear that any deposits were paid for the telephones. The Union's response further contends

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that there was "no consultation" with the Mondale campaign with regard to the installation of those telephones which were "in fact, installed and used primarily for purposes which had nothing to do with either the Mondale campaign or any other election for federal office."

In conceding that it did not bill MPC for any portion of installation and deposit costs it may have paid when the telephones at issue were originally installed, the Union argues that it "will not concede that there is any requirement in the Act, the Commission's Regulations, its Advisory Opinions or previous MURs that a candidate be charged for installation costs or deposits when it leases telephones from a labor organization for use in connection with its campaign." The Union submits that "where, as here, the telephones were installed more than a year before their use by the campaign without any consultation between the labor organization and the campaign and were installed and used almost exclusively for union purposes having nothing to do with this or any other campaign for federal office, there is no basis whatever for requiring a labor organization to include any amount for deposits or installation costs in calculating the amount it will charge a campaign to which it leases those telephones." Finally, the Union claims that "even assuming arguendo that there were such a requirement applicable to this Respondent, the appropriate charge to the campaign for its proportionate share of such costs would be de minimus where the telephones were installed well over a year before their use by

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the campaign and heavily used for other purposes during the intervening period."

II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were installed prior to any discussion with MPC concerning MPC's use of the telephones at issue. In addition, no deposit costs wre apparently paid by the Union for the telephones.

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The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of deposit or installation costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to

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MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe AFSCME District Council 37, Local 372 violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Edward Wendel, Esquire
United Food and Commercial Workers
International Union
1775 K Street, N.W.
Washington, D.C. 20006

Re: MUR 1641
UFCW; UFCW Locals 6P, 1161, 1169,
31P, 71, 47P, and 1439

Dear Mr. Wendel:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, determined that there was reason to believe your clients, UFCW, UFCW Local 6P, UFCW Local 1161, UFCW Local 1169, UFCW Local 31P, UFCW Local 71, UFCW Local 47P, and UFCW Local 1439, each violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred by each of your clients. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review are eight briefs stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Briefs

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
United Food and Commercial Workers International Union	)	MUR 1641

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Food and Commercial Workers International Union ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29, and November 8, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that it arranged for the installation of telephones in Muscatine, Council Bluffs, Cherokee, Mason City, and Esterville, Iowa. The Union explains that five telephones were installed in Muscatine, Iowa, on December 21, 1983, at a cost of $260.37, and that MPC "was billed and has paid $28.05 on its share of the installation fee." According to the Union, in Council Bluffs, Iowa, ten telephones were installed on January 20, 1984, at a cost of $358.82, and MPC was billed and has paid $35.86 of its share of the installation fee. The Union further states that in Cherokee, Iowa, three telephones were installed on December 13, 1983, at a

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cost of $159.54, and that MPC was billed $15.96 for its portion of the installation charges. As to Mason City, Iowa, the Union explains that seven telephones were installed on January 11, 1984, at a cost of $322.12, and that MPC was billed $32.21 for its portion of the installation charges. Finally, with respect to Esterville, Iowa, the Union states that three telephones were installed on December 15, 1983, at a cost of $179.94, and that MPC was billed $17.49 for its portion of these installation charges.*/

The response of the Union further states that prior to the installation of the telephones there were no discussions between the Union and MPC concerning MPC's use of the telephones at issue. The Union's response explains that the telephones were also used by the Union to communicate with its members. In conclusion, it is noted that no deposits were paid by the Union for the telephones involved herein.

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

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*/ The Union's October 29, 1984, reply notes that "[i]n cases where new telephones were installed the union, while in disagreement with the Commission's position that it was required to do so, has, in fact billed the Mondale campaign for a portion of the installation costs for new telephones."

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The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephones were installed by the Union prior to any discussion with MPC concerning MPC's use of the telephones. In addition, no deposit costs were paid by the Union for the telephones at issue.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved

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"[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

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III. General Counsel's Recommendation

Find no probable cause to believe the United Food and Commercial Workers International Union violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
United Food and Commercial Workers International Union, Local 6P	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Food and Commercial Workers International Union, Local 6P ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29, October 30, and November 8, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that two telephones were used by MPC from January 18, 1984, to February 19, 1984. According to the Union, the telephones at issue were installed in 1964 "to conduct the regular business affairs of the local union." The Union further explains that since the telephones had been in place for 20 years there could not have been any conversations between the Union and MPC about the use or installation of the telephones prior to their installation. The Union's response concludes by stating that it did not bill MPC for part of the installation cost of the pre-existing telephones.

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II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that above two telephones were pre-existing business telephones installed over 20 years ago. Hence, prior to the installation of the telephones there were no discussions between the Union and MPC concerning MPC's use of the telephones.

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The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes,

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without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the United Food and Commercial Workers International Union, Local 6P violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
United Food and Commercial Workers International Union, Local 1161	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Food and Commercial Workers International Union, Local 1161 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29, October 30, and November 8, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that one telephone was used by MPC from February 1, 1984, to February 20, 1984. According to the Union, the telephone at issue was installed in 1966 "to conduct the regular business affairs of the local union." The Union further explains that since the telephone had been in place for about 16 years there

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could not have been any conversations between the Union and MPC about the use or installation of the telephone prior to its installation. The Union's response concludes by stating that it did not bill MPC for any part of the installation cost of the pre-existing telephone.

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

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The evidence obtained in this matter demonstrates that the telephone utilized by MPC was a pre-existing business telephone, installed in 1966. Hence, prior to the installation of the telephone there were no discussions with MPC concerning MPC's use of the telephone.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of a union telephone, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for a telephone installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephone. In that there were no

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costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, a telephone is installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephone. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the United Food and Commercial Workers International Union, Local 1161 violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
United Food and Commercial Workers International Union, Local 1169	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Food and Commercial Workers International Union, Local 1169 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29, October 30, and November 8, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that one telephone was used by MPC from January 31, 1984, to February 20, 1984. According to the Union, the telephone at issue was installed in 1977 "to conduct the regular business affairs of the local union." The Union further explains that since the telephone had been in place for seven years there could not have been any conversations between the Union and MPC about the use or installation of the telephone prior to its installation. The Union's response concludes by stating that it did not bill MPC for part of the installation cost of the pre-existing telephone.

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II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephone was a pre-existing business telephone, installed seven years prior to MPC's use. Hence, prior to the installation of the telephone there were no discussions between the Union and MPC concerning MPC's use of the telephone.

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The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of a union telephone, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for a telephone installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephone. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, a telephone is installed by a labor union for its own purposes,

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without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephone. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the United Food and Commercial Workers International Union, Local 1169 violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

8504054149

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
United Food and Commercial Workers International Union, Local 31P	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Food and Commercial Workers International Union, Local 31P ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29, October 30, and November 8, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that six telephones were used by MPC; the telephones were installed on January 5, 1984, and disconnected on February 20, 1984. According to the Union, the telephones "were installed for the purposes of communicating with local union members regarding the Union's position on the elections." The Union further notes that a $1,000 deposit was paid for the telephones "which has since been returned to the Local Union with a credit of $26.63 for the interest earned in this amount." In addition, the

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Union's response asserts that MPC was billed $20.43 for its share of the installation fee of $204.30. Finally, the Union's response explains that there were "no discussions between the Mondale campaign and any agent of the labor organization prior to the installation of the new telephones."

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

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The evidence obtained in this matter demonstrates that the above telephones were installed prior to any discussion between the Union and MPC concerning MPC's use of the telephones. The telephones were installed for internal communications with Union members.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of

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MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the United Food and Commercial Workers International Union, Local 31P violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
United Food and Commercial Workers International Union, Local 71	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Food and Commercial Workers International Union, Local 71 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29, and November 8, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that ten telephones, installed on January 8, 1984, and disconnected on February 19, 1984, were used by MPC. According to the Union, the telephones "were installed for the purposes of communicating with local union members regarding the Union's position on the elections." The Union further notes that no deposit was required, and that MPC "was billed and has paid $59.65 as its share of the installation costs of $596.55." Finally, the Union's response explains that there were "no

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discussions between the Mondale campaign and any agent of the labor organization prior to the installation of the new telephones."*/

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

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*/ The Union's October 29, 1984, reply notes that "[i]n cases where new telephones were installed the union, while in disagreement with the Commission's position that it was required to do so, has, in fact billed the Mondale campaign for a portion of the installation costs for new telephones."

The evidence obtained in this matter demonstrates that the above telephones were installed prior to any discussion between the Union and MPC concerning MPC's use of the telephones. In addition, no deposit costs were paid by the Union for the telephones at issue.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs

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The evidence obtained in this matter demonstrates that the above telephones were installed prior to any discussion between the Union and MPC concerning MPC's use of the telephones. In addition, no deposit costs were paid by the Union for the telephones at issue.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephones. In that there were no costs

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to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the United Food and Commercial Workers International Union, Local 71 violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

8504054178

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
United Food and Commercial Workers International Union, Local 47P	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Food and Commercial Workers International Union, Local 47P ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29, and November 8, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that ten telephones, installed on January 18, 1984, and disconnected on February 20, 1984, were used by MPC. According to the Union, the telephones "were installed for the purposes of communicating with local union members regarding the Union's position on the elections." The Union further notes that no deposit was required for the ten telephones, and that MPC "was billed $23.13 as its portion of the installation costs of $231.30." Finally, the Union's response explains that there were

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"no discussions between the Mondale campaign and any agent of the labor organization prior to the installation of the new telephones."*/

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

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*/ The Union's October 29, 1984, reply notes that "[i]n cases where new telephones were installed the union, while in disagreement with the Commission's position that it was required to do so, has, in fact billed the Mondale campaign for a portion of the installation costs for new telephones."

The evidence obtained in this matter demonstrates that the above telephones were installed prior to any discussion with MPC concerning MPC's use of the telephones. In addition, no deposit costs were paid by the Union for the telephones at issue.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of union telephones, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for telephones installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of

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MPC's use of the Union's telephones. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the United Food and Commercial Workers International Union, Local 47P violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

8504041482

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
United Food and Commercial Workers International Union, Local 1439	)	MUR 1641
	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the United Food and Commercial Workers International Union, Local 1439 ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On October 29, October 30, and November 8, 1984, the Union responded to the Commission's finding and order.

In response to the Commission's finding the Union states that one telephone was used by MPC for one week. According to the Union, the telephone at issue was installed in 1980 "to conduct the regular business affairs of the local union." The Union further explains that since the telephone had been in place for about four years there could not have been any conversations between the Union and MPC about the use or installation of the telephone prior to its installation. The Union's response concludes by stating that it did not bill MPC for part of the installation of the pre-existing telephone.

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II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the above telephone utilized by MPC was a pre-existing business telephone installed four years prior to MPC's use. Hence, prior to the installation of the telephone there were no discussions with MPC concerning MPC's use of the telephone.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With

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respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized, the Commission did not require that a portion of installation or deposit costs for pre-existing telephones be paid by the political committee involved.

With respect to MPC's use of a union telephone, the term "normal and usual rental charge" should not be considered to include any portion of deposit or installation charges initially paid by a union for a telephone installed solely for its own purposes. In the instant matter there were no additional installation or deposit costs borne by the Union as a result of MPC's use of the Union's telephone. In that there were no costs to the Union for installation or deposits connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the Union. Thus, where as here, a telephone is installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the installation or deposit cost is required to be billed to,

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and paid by, a political committee which subsequently utilizes the union's pre-existing telephone. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the United Food and Commercial Workers International Union, Local 1439 violated 2 U.S.C. § 441b(a).

Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Patrick White, Esquire
Blake and Uhlig
475 New Brotherhood Building
Eighth and State Avenue
Kansas City, Kansas 66101

Re: MUR 1641
International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers

Dear Mr. White:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, found reason to believe that your client, the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred and take no further action. The Commission may or may not approve the General Counsel's recommendation.

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

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Brief

8504054148 3

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 1641
International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On September 18, 1984, the Commission determined that there is reason to believe the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 26, 1984, along with an order to submit written answers. On November 5 and 16, 1984, the Union responded in writing to the Commission's finding and order. On January 25, 1985, and February 8, 1985, counsel for the Union provided additional information by telephone.

In response to the Commission's finding, the Union states that MPC used phones in two locations. In Kansas City, 13 phones were used for 588.5 hours during the period between January 30, 1984, and March 31, 1984. The telephones were installed on January 24, 1984. The cost of the installation of the 13 telephones was $818.14 and the deposit, which was refunded, was $825, according to the Union. The Union explains that MPC was billed on May 5, 1984, for 43.3 per cent of the installation cost based upon its use. In addition, the installation of the

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telephones at this location was discussed with MPC prior to the installation, according to the Union's counsel.

In Wichita, eight telephones were used for 968 hours during the period of March 1, 1984 through April 2, 1984. According to the Union, the cost of the installation was $191.67, and the deposit, which was fully refunded, amounted to $530. The Union explains that the telephones were installed on March 1, 1984, but "[d]ue to the failure of the Local Boilermaker organization in Wichita to provide individuals to carry out the vote solicitation," MPC used the Wichita facility exclusively and was billed on May 5, 1984, for the entire amount of the installation. It is the position of the Union that the "telephone installation was handled in strict accordance with the letter and intent of 11 C.F.R. § 100.7." In addition, the Union's counsel acknowledged that the installation and use of the telephones was discussed with MPC prior to the installation.

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II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

Under 11 C.F.R. § 114.9(d) a political committee that utilizes a labor organization's telephones is required to reimburse for such use in the amount of the normal and usual rental charge which is defined to mean "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution" (11 C.F.R. § 100.7(a)(1)(iii)(B)). Hence, were MPC to install telephones at the same time in the same geographical locations as the Union's telephones MPC would have incurred installation and, perhaps, deposit charges. It also appears likely that the needs of MPC, relayed to the Union during discussions with MPC, may have influenced the arrangement for the installation of the telephones, as well as the timing of the installation. Thus, the absorption of the installation and deposit costs of the telephones installed for the partial benefit of MPC should be considered to constitute an in-kind contribution to MPC from the Union.

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In the instant matter the Union billed MPC for its share of installation costs in Kansas City and for the entire installation charge in Wichita. The Union's billing occurred on its own initiative and prior to the Commission's finding of reason to believe a violation occurred by the Union. Therefore, with respect to installation costs it does not appear that the Union violated 2 U.S.C. § 441b(a). As to deposit costs, however, the record in this matter indicates that the Union did not bill MPC for any portion of these costs and incurred a portion of these costs for the partial benefit of MPC. By so doing the Union made a prohibited contribution to MPC in violation of 2 U.S.C. § 441b(a). Accordingly, it is the recommendation of this Office that the Commission find probable cause to believe the Union violated 2 U.S.C. § 441b(a). It is, however, also the recommendation of this Office that the Commission take no further action against the Union in view of the amount of the deposits that would be attributable to MPC, and the fact that the deposits have been refunded to the Union.

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III. GENERAL COUNSEL'S RECOMMENDATION

Find probable cause to believe the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers violated 2 U.S.C. § 441b(a), and take no further action.

Date

Charles N. Steele
General Counsel

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary

FROM: Office of General Counsel

DATE: April 26, 1985

SUBJECT: MUR 1641 - Memorandum to Commission

The attached is submitted as an Agenda document for the Commission Meeting of _____

Open Session _____

Closed Session _____

CIRCULATIONS		DISTRIBUTION	
48 Hour Tally Vote	[ ]	Compliance	[xx]
Sensitive	[ ]		
Non-Sensitive	[ ]	Audit Matters	[ ]
24 Hour No Objection	[ ]	Litigation	[ ]
Sensitive	[ ]		
Non-Sensitive	[ ]	Closed MUR Letters	[ ]
Information	[xx]	Status Sheets	[ ]
Sensitive	[xx]		
Non-Sensitive	[ ]	Advisory Opinions	[ ]
Other	[ ]	Other (see distribution below)	[ ]

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Mondale for President
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007
Telephone: 202-625-1600

MONDALE

RESPONSE OF MONDALE FOR PRESIDENT COMMITTEE, INC. TO THE GENERAL COUNSEL'S BRIEF IN MUR 1641

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
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I. INTRODUCTION

This brief is in response to the General Counsel's Brief dated March 22, 1985 which recommends that the Commission find probable cause to believe the Mondale for President Committee, Inc., Michael S. Berman, as treasurer, and Walter F. Mondale violated 2 U.S.C. Section 441b(a) by accepting an in-kind contribution from six labor unions.1/ This recommendation of the General Counsel is based on the following two incorrect premises: 1) that installation costs are part of the normal and usual rental charge for telephones under 11 C.F.R. Section 114, if a political committee had any discussions with a labor organization about those telephones prior to their activation; and 2) even where MPC actually paid installation costs, a violation nevertheless occurred if a union billed MPC after the Commission's reason to believe finding against MPC.

As set forth below, there is no legal basis for concluding that the facts presented in this matter give rise to a finding of probable cause. Accordingly, MPC respectfully urges the Commission to reject the recommendation of the General Counsel and find no probable cause to believe that the Mondale for President Committee, Inc., Michael S. Berman as treasurer, and Walter F. Mondale violated 2 U.S.C. Section 441b(a).

1/ To the extent that the General Counsel recommends no probable cause, the committee obviously does not disagree with the conclusion. However, we rely on our prior submissions in this matter for the correct legal analysis supporting that conclusion.

Paid for by Mondale for President, Inc.

II. THERE IS NO BASIS FOR CONCLUDING THAT THE COMPUTATION OF NORMAL AND USUAL CHARGE FOR TELEPHONES DEPENDS ON WHETHER THERE WERE PRIOR DISCUSSIONS BETWEEN A POLITICAL COMMITTEE AND A LABOR ORGANIZATION ABOUT TELEPHONES

Under 11 C.F.R. Section 114.9(d), a political committee which makes use of a labor union's facilities, such as by using telephones, must reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. Section 100.7(a)(1)(iii)(B) for the use of the facilities. Under 11 C.F.R. Section 100.7(a)(1)(iii)(B), the "usual and normal charge" means the price of those goods in the market from which they normally would have been purchased. With respect to "usual and normal charge," there is no distinction made in the regulations between situations in which a political committee has prior discussions with a labor organization on the use of the organization's facilities and situations in which there are no such discussions between these entities.

In its brief, the General Counsel concludes that where telephones are installed or activated by a labor union for its own purposes, without prior discussion with a political committee, no portion of installation (or activation) and deposit costs need be billed to and paid by, the political committee. OGC Brief at 20 (emphasis added). In essence, the General Counsel states that usual and normal charge includes installation costs under one set of circumstances, but does not include installation costs under another set of circumstances. However, the regulations provide only one definition of usual and normal charge -- fair market value. Fair market value varies according to changes

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in the market place but does not vary on the basis of "prior discussions" between two entities.

The General Counsel recommends that the Commission find no probable cause to believe MPC, Michael S. Berman, as treasurer, and Walter F. Mondale, violated 2 U.S.C. Section 441b(a) with respect to 54 labor organizations because there were no "prior discussions" between MPC and these unions. In contrast, the General Counsel recommends that the Commission find probable cause to believe MPC, Michael S. Berman, as treasurer, and Walter F. Mondale violated 2 U.S.C. Section 441b(a) with respect to six named labor organizations because there were discussions between MPC representatives and the six named unions prior to installation of telephones. Thus the General Counsel's basis for finding a violation turns on whether there were prior discussions between a political committee and a union. But neither the statute nor the regulations relating to calculation of normal and usual rental charge draw any distinction between situations in which there were prior discussions between a political committee and a labor organization and situations in which there were no such discussions.

Furthermore, the General Counsel's brief fails to explain why prior discussions about telephones between a political committee and a labor organization, regardless of the content of the discussions, is evidence that installation of phones by the labor organizations constituted an in-kind contribution to the political committee. The only "evidence" relied upon in the General Counsel's brief consists of the apparent acknowledgement by representatives of the six named unions that they advised MPC

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representatives of the union's intention to activate phones for their own use. In some instances the MPC representative indicated that MPC may wish to lease those phones when not being used by the unions. There is nothing in any of the reported conversations to indicate that the named unions installed or activated telephones for other than their own purposes. Since the discussions quoted in the General Counsel's brief indicate nothing nore than mere conversation between a political committee and a labor organization, there is no evidence that installation of telephones by labor organizations constitued a prohibited contribution to MPC.

The General Counsel's brief establishes an unwarranted and unsupported presumption that MPC's expression of possible interest in leasing phones "may have influenced" the decision to activate them. OGC Brief at 24. In the absence of any evidence to this effect, the brief merely asserts it as a possibility. Even if the General Counsel's presumption that the union's knowledge that MPC also may use the phones affected their decisions to activate them, the General Counsel's conclusion that this demonstrates a contribution does not follow. Ordinarily, there is substantial "down time" in the use of any phone bank. More likely, potential MPC use would provide a means for the union to receive monies for use of the phones when they would otherwise be active, thereby allowing the union to recoup some portion of its monthly service charge for unused phones.

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III. SINCE MPC ACTUALLY PAID INSTALLATION COSTS, NO VIOLATION OCCURRED

Inasmuch as MPC actually paid installation costs to those six unions involved in the probable cause finding, it is obvious that no violation occurred. However, the General Counsel argues that a violation did occur simply and only because the six named unions billed MPC for installation costs after the Commission's reason to believe finding against MPC.

The General Counsel thus goes through a series of faulty steps in its reasoning on this matter. First, the General Counsel incorrectly concludes that MPC is required to pay installation costs if there was any discussion prior to activation. Then, the General Counsel concludes that even though MPC actually paid installation costs, such payments must be ignored simply because the unions involved did not bill MPC on their own initiative. Hence, the General Counsel concludes that because the six named unions billed MPC after the Commission's RTB finding against MPC, this billing was not on the union's own initiative and therefore a violation occurred.

There is nothing in the statute or regulations stating that where a political committee uses union or corporate facilities, the corporation or union must bill such a political committee "on its own initiative." Rather, Commission regulations require a political committee to pay the usual and normal rental charge for the facilities used. MPC paid the usual and normal charge, even assuming that the General Counsel is correct that MPC was required to pay a portion of deposit or installation costs. The General Counsel's brief draws a distinction between unions which

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billed MPC on their own initiative prior to the Commission's reason to believe finding against MPC and unions which billed MPC after the Commission's reason to believe finding against MPC. MPC submits that the distinction set forth in the General Counsel's brief has no legal significance.

IV. THE GENERAL COUNSEL'S RECOMMENDATION TO FIND PROBABLE CAUSE AGAINST WALTER F. MONDALE IS PROCEDURALLY DEFECTIVE AND WITHOUT FACTUAL OR LEGAL BASIS

The General Counsel's brief recommends a finding of probable cause against Walter F. Mondale personally in this matter. The Commission should reject this recommendation for two reasons: 1) Mr. Mondale never received proper notification of the Commission's June 12, 1984 finding of reason to believe setting the legal and factual basis for a finding against him, and 2) there is absolutely no basis in the evidence for a finding of any violation by the candidate in this matter.

By letter of July 3, 1984, counsel for MPC were notified of the Commission's findings of reason to believe on June 12 against MPC and Michael S. Berman, as Treasurer. There was no notification of any finding against Mr. Mondale in this letter.2/

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2/ Upon receipt of the brief in this matter which clearly recommends probable cause against Mr. Mondale, counsel reviewed the file in this matter. A letter of September 25, 1984, enclosing interrogatories to MPC and Michael Berman does make reference to a Commission finding against Mr. Mondale on June 12. It does not, however, set forth any legal or factual basis for any finding against the candidate personally. Because the July 3 notification did not include a finding against Mr. Mondale, counsel did not notice the inclusion of Mr. Mondale in that portion of the September 25 letter which merely describes the prior Commission action. This subsequent letter does not take the place of a notification setting forth a factual and legal basis for a finding against a respondent.

Under 11 C.F.R. Section 111.9 the Commission is required to notify a respondent of a Commission finding of reason to believe by letter "setting forth the sections of the statute or regulations alleged to have been violated and the alleged factual basis supporting the finding." There has been no notification of any basis for a finding against the candidate in this matter. For this reason, the Commission may not now proceed to a finding of probable cause against Walter F. Mondale in this matter.

There is no need for the Commission to delay resolution of this MUR in order to correct this procedural defect since there is absolutely no factual or legal basis for a finding against the candidate personally. The Commission may simply rescind its finding of reason to believe or find no probable cause against the candidate. Indeed, it is likely that the finding against Mr. Mondale was simply a mistake. Although he was named as a respondent in this complaint, as well as in every other complaint filed against the Committee by the NRWC, the Commission did not find reason to believe against the candidate in any other of those complaints. For example, in MURS 1776 and 1777, the Commission found reason to believe against MPC and Berman, as treasurer, and found no reason to believe against the candidate. In other cases, the Commission simply made no finding concerning the candidate. See MUR 1839. In this case, there is no analysis in the General Counsel's brief of any violation by the candidate personally, and no information set forth which supports a conclusion that such a violation occurred.

Under 2 U.S.C. Section 432(e)(1), the candidate is an agent of his or her authorized committees. Congress made this change

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in the law in 1979 specifically to avoid the taking of action against a candidate, unless there is evidence of a personal violation of the Act, such as a contribution in excess of $50,000. See 26 U.S.C. Section 9004(d). Even under the public funding statute, the candidate is personally responsible only to make repayments -- and this is specified in the statute. 26 U.S.C. Sections 9038(b) and 9007(b).

Thus, in the absence of any evidence that the candidate personally violated the statute, the Commission should have found no reason to believe against Mr. Mondale.

V. CONCLUSION

For the foregoing reasons, MPC respectfully requests that the Commission 1) find no probable cause to believe that MPC or Michael S. Berman violated 2 U.S.C. Section 441b by accepting in-kind contributions from any of the labor organizations at issue in this matter; and 2) rescind its reason to believe finding against Walter F. Mondale or, alternatively, find no probable cause to believe that Mr. Mondale violated 2 U.S.C. Section 441b by accepting in-kind contributions from any of the labor organizations at issue in this matter.

Respectfully submitted,

Carolyn U. Oliphant

Carolyn U. Oliphant
Deputy General Counsel

Patricia A. Fiori

Patricia A. Fiori
Special Counsel

April 15, 1985

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White

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OFFICE OF THE
GENERAL COUNSEL

nea
NATIONAL EDUCATION ASSOCIATION • 1201 16th St., N.W., Washington, D.C. 20036 • (202) 822-7035
MARY HATWOOD FUTRELL, President
KEITH GEIGER, Vice President
ROXANNE E. BRADSHAW, Secretary-Treasurer
DON CAMERON, Executive Director

LEGAL SERVICES
OFFICE OF GENERAL COUNSEL

85 APR 15 P 3:42

April 15, 1985

Ms. Marjorie Emmons
Secretary, Federal Election Commission
Washington, D.C. 20463

Re: MUR 1641
NEA-New Hampshire
Iowa State Education Association

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Dear Ms. Emmons:

On March 25, 1985, Charles N. Steele, General Counsel for the Federal Election Commission, sent us a letter regarding the above MUR, together with copies of two briefs that he intended to submit to the Commission (i.e., In the Matter of NEA-New Hampshire ("NEA-NH"), and In the Matter of the Iowa State Education Association ("ISEA")). In his covering letter, the General Counsel invited us to file with you a brief setting forth the position of our clients vis-a-vis the issues and replying to his briefs. This letter brief is submitted in response to the General Counsel's invitation.

1. NEA-NH

In his brief regarding the charge against NEA-NH in MUR 1641, the General Counsel recommends that the Commission find no probable cause to believe that NEA-NH has violated the Federal Election Campaign Act of 1971, as amended ("Act"). For the reasons set forth in the General Counsel's brief, and in the October 9, 1984 response submitted by NEA-NH in this MUR, we urge the Commission to adopt the General Counsel's recommendation.

2. ISEA

In his brief regarding the charge against ISEA in MUR 1641, the General Counsel recommends "that the Commission find probable cause to believe a violation has occurred by the [ISEA] and take no further action." General Counsel's Brief In the Matter of Iowa State Education Association at 5. The General Counsel's

recommendation regarding probable cause is bottomed on the assertion that "the absorption of the installation costs of the telephones installed for the partial benefit of MPC should be considered to constitute an in-kind contribution." Id. We need not for present purposes debate whether this assertion is an accurate statement of the law, inasmuch as there is nothing in the record to indicate that the telephones in question were "installed for the partial benefit of MPC." Although ISEA did have a discussion with MPC before the telephones were installed, the General Counsel is wrong in suggesting that this discussion "influenced the arrangement for the installation of the telephones as well as the timing of the installation." Id. The discussion in question took place after ISEA unilaterally had determined where and when it intended to install the telephones "in order to have additional telephone capacity for members to contact other members regarding caucus attendance," Response of the Iowa State Education Association to "Order to Submit Written Answers" From the FEC, and there is no evidence that these determinations were in any way altered as a result of the discussion with MPC.

Should the Commission, notwithstanding the above, find that there is probable cause to believe ISEA violated the Act, we urge it to adopt the General Counsel's additional recommendation that no further action be taken against ISEA.

Respectfully submitted,

Robert H. Chanin
General Counsel

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LEGAL SERVICES
OFFICE OF GENERAL COUNSEL

NATIONAL EDUCATION ASSOCIATION • 1201 16th St., N.W., Washington, D C 20036 • (202) 822-7035
MARY HATWOOD FUTRELL, President
KEITH GEIGER, Vice President
ROXANNE E. BRADSHAW, Secretary-Treasurer
DON CAMERON, Executive Director

April 15, 1985

Ms. Marjorie Emmons
Secretary, Federal Election Commission
Washington, D.C. 20463

Re: MUR 1641
NEA-New Hampshire
Iowa State Education Association

Dear Ms. Emmons:

On March 25, 1985, Charles N. Steele, General Counsel for the Federal Election Commission, sent us a letter regarding the above MUR, together with copies of two briefs that he intended to submit to the Commission (i.e., In the Matter of NEA-New Hampshire ("NEA-NH"), and In the Matter of the Iowa State Education Association ("ISEA")). In his covering letter, the General Counsel invited us to file with you a brief setting forth the position of our clients vis-a-vis the issues and replying to his briefs. This letter brief is submitted in response to the General Counsel's invitation.

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recommendation regarding probable cause is bottomed on the assertion that "the absorption of the installation costs of the telephones installed for the partial benefit of MPC should be considered to constitute an in-kind contribution." Id. We need not for present purposes debate whether this assertion is an accurate statement of the law, inasmuch as there is nothing in the record to indicate that the telephones in question were "installed for the partial benefit of MPC." Although ISEA did have a discussion with MPC before the telephones were installed, the General Counsel is wrong in suggesting that this discussion "influenced the arrangement for the installation of the telephones as well as the timing of the installation." Id. The discussion in question took place after ISEA unilaterally had determined where and when it intended to install the telephones "in order to have additional telephone capacity for members to contact other members regarding caucus attendance," Response of the Iowa State Education Association to "Order to Submit Written Answers" From the FEC, and there is no evidence that these determinations were in any way altered as a result of the discussion with MPC.

Should the Commission, notwithstanding the above, find that there is probable cause to believe ISEA violated the Act, we urge it to adopt the General Counsel's additional recommendation that no further action be taken against ISEA.

Respectfully submitted,

Robert H. Chanin
General Counsel

RHC:gm

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 3, 1985

Orrin Baird, Esquire
Connerton, Bernstein and Katz
Suite 800
1899 L Street, NW
Washington, D.C. 20036

Re: MUR 1641
Laborers' International
Union of North America

Dear Mr. Baird:

This is to advise you that after an investigation was conducted, the Commission concluded on March 26, 1985, that there is no probable cause to believe the Laborers International Union of North America violated the Act. Accordingly, the file in this matter has been closed as it pertains to your client. This matter will become part of the public record within 30 days, after it has been closed with respect to all other respondents involved. Should you wish to submit any factual or legal materials to appear on the public record, please do so within 10 days. The Commission reminds you, however, that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed.

If you have any questions, contact Maura White, the staff member assigned to handle this matter at (202)523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 3, 1985

Margaret E. McCormick, Esquire
AFL-CIO Legal Department
815 Sixteenth Street, NW
Washington, D.C. 20006

Re: MUR 1641
Black Hawk Labor
Temple Corporation;
Clinton Labor Congress,
AFL-CIO

Dear Ms. McCormick:

This is to advise you that after an investigation was conducted, the Commission concluded on March 26, 1985, that there is no probable cause to believe your clients, Black Hawk Labor Temple Corporation and Clinton Labor Congress, violated the Act. Accordingly, the file in this matter has been closed as it pertains to your clients. This matter will become part of the public record within 30 days, after it has been closed with respect to all other respondents involved. Should you wish to submit any factual or legal materials to appear on the public record, please do so within 10 days. The Commission reminds you, however, that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed.

If you have any questions, contact Maura White the staff member assigned to handle this matter, at (202)523-4143.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

April 3, 1985

Roger A. Jensen, Esquire
Peterson, Bell, and Converse
2100 American National Bank Building
101 East Fifth Street
St. Paul, Minnesota 55101

Re: MUR 1641
United Carpenters and
Joiners of America, Local 7

Dear Mr. Jensen:

This is to advise you that after an investigation was conducted, the Commission concluded on March 26, 1985, that there is no probable cause to believe the United Carpenters and Joiners of America, Local 7 violated the Act. Accordingly, the file in this matter has been closed as it pertains to your client. This matter will become part of the public record within 30 days, after it has been closed with respect to all other respondents involved. Should you wish to submit any factual or legal materials to appear on the public record, please do so within 10 days. The Commission reminds you, however, that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed.

If you have any questions, contact Maura White the staff member assigned to handle this matter, at (202)523-4143.

Sincerely,

Charles N. Steele
General Counsel

8504041503

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 3, 1985

Alan V. Reuther
Assistant General Counsel
UAW
1757 N Street, N.W.
Washington, D.C. 20036

Re: MUR 1641
UAW, Local 442

Dear Mr. Reuther:

This is to advise you that after an investigation was conducted, the Commission concluded on March 26, 1985, that there is no probable cause to believe UAW, Local 442, violated the Act. Accordingly, the file in this matter has been closed as it pertains to your client. This matter will become part of the public record within 30 days, after it has been closed with respect to all other respondents involved. Should you wish to submit any factual or legal materials to appear on the public record, please do so within 10 days. The Commission reminds you, however, that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed.

If you have any questions, contact Maura White the staff member assigned to handle this matter, at (202)523-4143.

Sincerely,

Charles N. Steele
General Counsel

8504041509

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 3, 1985

Robert Kurnick, Esquire
Sherman, Dunn, Cohen, Leifer and Counts
Suite 801
1125 15th Street
Washington, D.C. 20005

Re: MUR 1641
IBEW, Local 405

Dear Mr. Kurnick:

This is to advise you that after an investigation was conducted, the Commission concluded on March 26, 1985, that there is no probable cause to believe IBEW, Local 405 violated the Act. Accordingly, the file in this matter has been closed as it pertains to your client. This matter will become part of the public record within 30 days, after it has been closed with respect to all other respondents involved. Should you wish to submit any factual or legal materials to appear on the public record, please do so within 10 days. The Commission reminds you, however, that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed.

If you have any questions, contact Maura White the staff member assigned to handle this matter, at (202)523-4143.

Sincerely,

Charles N. Steele
General Counsel

8504054150

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 3, 1985

Charles L. Bell, President
Brevard County Central Labor Council
1122 Lake Drive
P.O. Box 3787
Cocoa, FL 32922

Re: MUR 1641
Brevard County Central Labor Council

Dear Mr. Bell:

This is to advise you that after an investigation was conducted, the Commission concluded on March 26, 1985, that there is no probable cause to believe the Brevard County Central Labor Council violated the Act. Accordingly, the file in this matter has been closed as it pertains to the union. This matter will become part of the public record within 30 days, after it has been closed with respect to all other respondents involved. Should you wish to submit any factual or legal materials to appear on the public record, please do so within 10 days. The Commission reminds you, however, that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed.

If you have any questions, contact Maura White the staff member assigned to handle this matter, at (202)523-4143.

Sincerely,

Charles N. Steele
General Counsel

8504511

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Brevard County Central Labor Council; United Carpenters and Joiners of America, Local 7; Clinton Labor Congress, AFL-CIO; Black Hawk Labor Temple Corporation; Laborers International Union of North America; International Brotherhood of Electrical Workers, Local 405; UAW, Local 442	)	MUR 1641

CERTIFICATION

I, Mary W. Dove, recording secretary for the Federal Election Commission executive session of March 26, 1985, do hereby certify that the Commission decided by a vote of 4-0 to take the following actions in MUR 1641:

1. Find no probable cause to believe the: Brevard County Central Labor Council; United Carpenters and Joiners of America, Local 7; Clinton Labor Congress, AFL-CIO; Black Hawk Labor Temple Corporation; Laborers International Union of North America; International Brotherhood of Electrical Workers, Local 405; and, UAW, Local 442 violated 2 U.S.C. § 441b(a).

2. Approve the letters attached to the General Counsel's Report dated March 19, 1985.

3. Close the file as it pertains to these respondents.

Commissioners Aikens, Elliott, Harris, and McGarry voted affirmatively for this decision.

3-27-85
Date

Attest:

Mary W. Dove
Recording Secretary

8504054152

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary

FROM: Office of General Counsel

DATE: March 19, 1985

SUBJECT: MUR 1641 - General Counsel's Report

The attached is submitted as an Agenda document for the Commission Meeting of March 26, 1985

Open Session _____

Closed Session XX

CIRCULATIONS		DISTRIBUTION	
48 Hour Tally Vote	[ ]	Compliance	[X]
Sensitive	[ ]		
Non-Sensitive	[ ]	Audit Matters	[ ]
24 Hour No Objection	[ ]	Litigation	[ ]
Sensitive	[ ]		
Non-Sensitive	[ ]	Closed MUR Letters	[ ]
Information	[ ]	Status Sheets	[ ]
Sensitive	[ ]		
Non-Sensitive	[ ]	Advisory Opinions	[ ]
Other	[X]	Other (see distribution below)	[ ]

Circulate on Blue Paper

Sensitive

On Agenda 3-26-85

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SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY

In the Matter of)
) 85 MAR 19 P1:47
Brevard County Central)
Labor Council; United Carpenters)
and Joiners of America, Local 7;)
Clinton Labor Congress, AFL-CIO;) MUR 1641
Black Hawk Labor Temple Corporation;)
Laborers International)
Union of North America;) MAR 26 1985
International Brotherhood of Electrical)
Workers, Local 405;)
UAW, Local 442)

EXECUTIVE SESSION

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On September 18, 1984, the Commission determined that there is reason to believe the Brevard County Central Labor Council; the United Carpenters and Joiners of America, Local 7; the Clinton Labor Congress, AFL-CIO; the Black Hawk Labor Temple Corporation; the Laborers International Union of North America; the International Brotherhood of Electrical Workers, Local 405; and, the UAW, Local 442, violated 2 U.S.C. § 441b(a). Between October 10, 1984, and November 6, 1984, the above seven unions responded to the Commission's finding and interrogatories. On January 25, 1985, a General Counsel's Brief was mailed to each of the above seven unions recommending a finding of no probable cause to believe with respect to each of the unions.

II. LEGAL ANALYSIS

None of the above seven unions have submitted a response to the General Counsel's Brief in this matter and, therefore, the legal analysis in this matter remains the same. See the General Counsel's Briefs in MUR 1641 which were transmitted to the Commission on January 25, 1985.

8504514

III. **RECOMMENDATIONS**

1. Find no probable cause to believe the: Brevard County Central Labor Council; United Carpenters and Joiners of America, Local 7; Clinton Labor Congress, AFL-CIO; Black Hawk Labor Temple Corporation; Laborers International Union of North America; International Brotherhood of Electrical Workers, Local 405; and, UAW, Local 442 violated 2 U.S.C. § 441b(a), and close the file as it pertains to these respondents.

2. Approve the attached letters.

Date

Charles N. Steele
General Counsel

Attachments
Proposed letters (6)

8504054151

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Charles L. Bell, President
Brevard County Central Labor Council
1122 Lake Drive
P.O. Box 3787
Cocoa, FL 32922

Re: MUR 1641
Brevard County Central Labor
Council

Dear Mr. Bell:

This is to advise you that after an investigation was conducted, the Commission concluded on , 1985, that there is no probable cause to believe the Brevard County Central Labor Council violated the Act. Accordingly, the file in this matter has been closed as it pertains to the union. This matter will become part of the public record within 30 days, after it has been closed with respect to all other respondents involved. Should you wish to submit any factual or legal materials to appear on the public record, please do so within 10 days. The Commission reminds you, however, that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed.

If you have any questions, contact Maura White the staff member assigned to handle this matter, at (202)523-4143.

Sincerely,

Charles N. Steele
General Counsel

Attachment 1 (1)

8504051516

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Roger A. Jensen, Esquire
Peterson, Bell, and Converse
2100 American National Bank Building
101 East Fifth Street
St. Paul, Minnesota 55101

Re: MUR 1641
United Carpenters and
Joiners of America, Local 7

Dear Mr. Jensen:

This is to advise you that after an investigation was conducted, the Commission concluded on , 1985, that there is no probable cause to believe the United Carpenters and Joiners of America, Local 7 violated the Act. Accordingly, the file in this matter has been closed as it pertains to your client. This matter will become part of the public record within 30 days, after it has been closed with respect to all other respondents involved. Should you wish to submit any factual or legal materials to appear on the public record, please do so within 10 days. The Commission reminds you, however, that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed.

If you have any questions, contact Maura White the staff member assigned to handle this matter, at (202)523-4143.

Sincerely,

Charles N. Steele
General Counsel

Attachment 1 (2)

8504517

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Margaret E. McCormick, Esquire
AFL-CIO Legal Department
815 Sixteenth Street, NW
Washington, D.C. 20006

Re: MUR 1641
Black Hawk Labor
Temple Corporation;
Clinton Labor Congress,
AFL-CIO

Dear Ms. McCormick:

This is to advise you that after an investigation was conducted, the Commission concluded on , 1985, that there is no probable cause to believe your clients, Black Hawk Labor Temple Corporation and Clinton Labor Congress, violated the Act. Accordingly, the file in this matter has been closed as it pertains to your clients. This matter will become part of the public record within 30 days, after it has been closed with respect to all other respondents involved. Should you wish to submit any factual or legal materials to appear on the public record, please do so within 10 days. The Commission reminds you, however, that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed.

If you have any questions, contact Maura White the staff member assigned to handle this matter, at (202)523-4143.

Sincerely,

Charles N. Steele
General Counsel

Attachment 1 (3)

8504054518

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Orrin Baird, Esquire
Converton, Bernstein and Katz
Suite 800
1899 L Street, NW
Washington, D.C. 20036

Re: MUR 1641
Laborers' International
Union of North America

Dear Mr. Baird:

This is to advise you that after an investigation was conducted, the Commission concluded on , 1985, that there is no probable cause to believe the Laborers International Union of North America violated the Act. Accordingly, the file in this matter has been closed as it pertains to your client. This matter will become part of the public record within 30 days, after it has been closed with respect to all other respondents involved. Should you wish to submit any factual or legal materials to appear on the public record, please do so within 10 days. The Commission reminds you, however, that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed.

If you have any questions, contact Maura White, the staff member assigned to handle this matter at (202)523-4143.

Sincerely,

Charles N. Steele
General Counsel

Attachment 1 (4)

8504054159

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Robert Kurnick, Esquire
Sherman, Dunn, Cohen, Leifer and Counts
Suite 801
1125 15th Street
Washington, D.C. 20005

Re: MUR 1641
IBEW, Local 405

Dear Mr. Kurnick:

This is to advise you that after an investigation was conducted, the Commission concluded on , 1985, that there is no probable cause to believe IBEW, Local 405 violated the Act. Accordingly, the file in this matter has been closed as it pertains to your client. This matter will become part of the public record within 30 days, after it has been closed with respect to all other respondents involved. Should you wish to submit any factual or legal materials to appear on the public record, please do so within 10 days. The Commission reminds you, however, that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed.

If you have any questions, contact Maura White the staff member assigned to handle this matter, at (202)523-4143.

Sincerely,

Charles N. Steele
General Counsel

Attachment 1(5)

8504041520

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Alan V. Reuther
Assistant General Counsel
UAW
1757 N Street, N.W.
Washington, D.C. 20036

Re: MUR 1641
UAW, Local 442

Dear Mr. Reuther:

This is to advise you that after an investigation was conducted, the Commission concluded on , 1985, that there is no probable cause to believe UAW, Local 442, violated the Act. Accordingly, the file in this matter has been closed as it pertains to your client. This matter will become part of the public record within 30 days, after it has been closed with respect to all other respondents involved. Should you wish to submit any factual or legal materials to appear on the public record, please do so within 10 days. The Commission reminds you, however, that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed.

If you have any questions, contact Maura White the staff member assigned to handle this matter, at (202)523-4143.

Sincerely,

Charles N. Steele
General Counsel

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Attachment 1 (6)

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary

FROM: Office of General Counsel

DATE: March 25, 1985

SUBJECT: MUR 1641 - Memo and General Counsel's Briefs

The attached is submitted as an Agenda document for the Commission Meeting of _____

Open Session _____

Closed Session _____

CIRCULATIONS		DISTRIBUTION	
48 Hour Tally Vote	[ ]	Compliance	[X]
Sensitive	[ ]		
Non-Sensitive	[ ]	Audit Matters	[ ]
24 Hour No Objection	[ ]	Litigation	[ ]
Sensitive	[ ]		
Non-Sensitive	[ ]	Closed MUR Letters	[ ]
Information	[X]	Status Sheets	[ ]
Sensitive	[X]		
Non-Sensitive	[ ]	Advisory Opinions	[ ]
Other	[ ]	Other (see distribution below)	[ ]

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RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY

85 MAR 27 AM 8:00

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: The Commission

FROM: Charles N. Steele
General Counsel

SUBJECT: MUR 1641

Attached for the Commission's review are four briefs stating the position of the General Counsel on the legal and factual issues of the above-captioned matter. Copies of the briefs and letters notifying the respective respondents of the General Counsel's intent to recommend to the Commission findings of probable cause to believe and no probable cause to believe were mailed on March 25 , 1985. Following receipt of the respondents' replies to these notices this office will make a further report to the Commission.

Attachments
1. Briefs (4) and letters (3)

8504041523

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Walter F. Mondale;	)	MUR 1641
Mondale for President Committee, Inc;	)	
Michael S. Berman, as treasurer	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On March 6, 1984, Ralph Hettinga, Jr., filed a complaint alleging that Walter F. Mondale, the Mondale for President Committee, Inc. ("MPC") and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a) by accepting in-kind contributions from eight labor organizations.[1/] On March 9, 1984, the respondents were notified of the complaint. On April 11, 1984, the Office of the General Counsel received the response of MPC, which was supplemented by a response on April 13, 1984.

On June 12, 1984, the Commission determined to find reason to believe that Walter F. Mondale, MPC, and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a) by failing to pay a portion of the telephone installation and deposit costs incurred by the various labor organizations whose telephones MPC utilized. Notification of the Commission's finding and interrogatories were mailed to counsel for MPC on July 3, 1984. On July 31, 1984,

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1/ The complaint alleged that MPC used the facilities of the American Federation of Labor and Congress of Industrial Organizations ("AFL-CIO"), the New Hampshire State Labor Council ("NH AFL-CIO"), the Iowa Federation of Labor, the Alabama Labor Council, the National Education Association ("NEA"), the National Education Association of New Hampshire ("NEA-NH"), the Iowa State Education Association ("ISEA"), and the Alabama Education Association.

Attachment I (1)

counsel for MPC submitted a Motion to Reconsider the Commission's Finding of Reason to Believe that a violation of the Act has occurred.[2/] The Commission determined on August 15, 1984, to deny the respondents' motion and counsel was so advised by letter dated August 16, 1984.

On August 20, 1984, MPC submitted its response to the Commission's interrogatories. In a general statement included within its response, MPC stated that an "Agreement for the Use of Labor Organization Facilities and Equipment" was developed by MPC and "provided to MPC employees in the field who were authorized to make arrangements for the use of labor facilities and equipment." MPC identified numerous individuals with whom it entered into lease agreements on behalf of labor unions for the use of the union's facilities. At this time MPC noted that "in some instances Use Agreements were signed, but the phones were not needed." MPC also explained that "[t]here also may be instances in which agreements were signed, phones were used and the Use Agreement is in the possession of the labor organization and not MPC."

With respect to the payment of installation and deposit costs for the labor organizations' telephones, the August 20, 1984, response of MPC reiterates that it did not pay such costs, or any portion thereof. The single exception noted is MPC's payment of the installation costs of the telephones it leased in

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2/ This motion argued, citing past Commission enforcement matters, that there was no legal basis for requiring deposit and installation fees to be included in the reimbursement amounts paid for use of labor telephones.

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Dover, New Hampshire, from the NH AFL-CIO. It is the position of MPC that "there is no evidence that the labor organizations paid deposit costs for their telephones since it is common for volume users to have agreements with the telephone companies such as MPC's National Payment agreement." Finally, MPC contended that it had "no knowledge" of the identity of the entities which paid the deposit and installation costs at issue herein.

Based upon the information provided by MPC on August 20, 1984, the Commission determined on September 18, 1984, that there is reason to believe Walter F. Mondale, MPC, and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a) by accepting the payment of telephone installation and deposit costs from 53 labor organizations (American Federation of Teachers; American Federation of Teachers, Local 2309; Massachusetts Federation of Teachers; CWA, Local 1365; MEA-NEA, Local 1; CWA, Local 6010; Massachusetts Teachers Association; Bakery, Confectionary and Tobacco Workers Union, Local 275; United Union of Roofers, Waterproofers and Allied Workers, Local 70; Quad City Federation of Labor; IBEW, Local 252; Burlington County Education Association; IBEW, Local 2320; United Brotherhood of Carpenters and Joiners of America, Lcoal 678; United Brotherhood of Carpenters and Joiners of America, Local 512; United Brotherhood of Carpenters and Joiners of America, Local 766; United Brotherhood of Carpenters and Joiners of America, Local 7; Muskogee and Vicinity Central Labor Council; Black Hawk Labor Temple Corp.; UFCW; UFCW, Local 6P; UFCW, Local 47-P; UFCW, Local

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1439; Clinton Labor Congress; IBEW, Local 405; IBEW, Local 292; Hotel, Hospital, Restaurant, and Tavern Employees Union, Local 21; United Steelworkers of America, Local 3539; UPIU, Local 75; UPIU, Local 61; Muskegon County UAW, C.A.P. Council; United Auto Workers, Local 442; Clark County Classroom Teachers Association; UFCW, Local 71; UFCW, Local 1169; UFCW Local 31; Greater Flint AFL-CIO Council; International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers; Maine AFL-CIO; Washington State Labor Council; Ohio AFL-CIO; AFSCME District Council 37, Local 372; United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the U.S. and Canada, Local 190; United Steelworkers of America, Local 2944; Minneapolis Building and Construction Trades Council; Trowel Trades, Local 14; UFCW, Local 1161; CWA, Local 4305; Brevard County Central Labor Council; Hillsborough County Central Labor Council; Laborers International Union of North America; and, Wisconsin State AFL-CIO).

Notification of the Commission's finding and an order to submit written answers were mailed to MPC on September 25, 1984. On October 19, 1984, MPC responded to the Commission's order.

The October 19, 1984, response of MPC states that "there is no evidence in the record that any of the 53 unions paid [installation or deposit] costs of behalf of MPC or indeed, paid them at all." MPC argues that "even if there were evidence that these payments were made, there is no legal basis for the conclusion that such payments constitute a violation of the Act."

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According to MPC, the "regulations offer no specific guidance on how to calculate reimbursement according to the 'market price' definition." In the absence of "articulated standards in either the Act or regulations, therefore, MPC reviewed all other available Commission matters." Based upon its review, and citing previous enforcement actions and one Advisory Opinion, MPC concludes that "it is evident that requiring payment of deposit and installation costs here would require reversal of the Commission's established position on this issue." At this time MPC identified 45 additional unions whose telephones it utilized. MPC also included in its response the statement of Kenneth Whittaker, Vice-President of Public Interest Communications, Inc., a telemarketing firm, which notes that when billing clients for phoning services, "[w]e do not charge for the installation costs because they are a one time expense and therefore are not considered as a continuing overhead item." Hence, MPC concludes that the Commission's finding is based upon a "faulty factual premise" because, as demonstrated, "the normal and usual charge for phones provided by a commercial vendor would not include reimbursement for any portion of deposit or installation costs."

8504152 8

A. Eight Unions named in the complaint involving the Commission's June 12, 1984 finding against MPC, Michael S. Berman, as treasurer, and MPC.

The eight unions named in the complaint submitted information to the Commission in response to the complaint's

allegations. This information concerning MPC's alleged use of these unions' telephones is discussed below.

1. NH AFL-CIO

The NH AFL-CIO has explained that it incurred no deposit costs for the nine telephones installed in Dover, New Hampshire, and that MPC was billed $252.98 for installation costs on April 9, 1984.[3/] As to the single telephone used by MPC in Lanconia, New Hampshire, the NH AFL-CIO noted that the telephone was installed on December 8, 1983, and used for only six hours on one day. Thus, the NH AFL-CIO argues that after prorating the installation fee of $84.25, over the 83 days before MPC used the telephone on February 28, 1984, the resulting amount is only $.61. Here also, the NH AFL-CIO contends that it did not pay any deposit costs for the telephone. In response to the complaint, the NH AFL-CIO noted that the telephones in question were installed in connection with the making of internal communications to AFL-CIO members. In addition, the NH AFL-CIO stated that the installation of the one telephone in Lanconia, N.H. was not discussed with MPC prior to its installation.

2. ISEA

According to the ISEA, MPC used 17 of its telephones at three locations in Iowa (Des Moines; Red Oak and

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3/ Because the NH AFL-CIO billed MPC for installation costs in Dover, New Hampshire, on April 9, 1984, prior to a finding of a violation with respect to these telephones, the Commission has taken the view with respect to the NH AFL-CIO that these costs are not in violation herein.

8504054-529

Algona) for a total of 36 hours during the period of January 14, 1984, through February 16, 1984. In Des Moines seven "existing business phones were used on a Saturday and a Sunday," and in Red Oak and Algona, where ten telephones were installed on January 12, 1984, ISEA billed MPC "for its pro rata share of the cost of installation based on usage." ISEA states that the installation costs totalled $332 at the two locations, and that subsequent to April 13, 1984, it billed MPC $33.48 for its share of the installation costs. ISEA maintains that there were no deposits paid for the telephones at issue. Moreover, the ISEA states that the purpose of the installations at the two locations "was to have additional telephone capacity for members to contact other members regarding caucus attendance," and that prior to the installation this "information was shared by an ISEA staff person with an MPC staff person, who asked if MPC could use the lines when they were not being used in the member contact program."

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3. NEA-NH

The NEA-NH has explained that four telephones were used by MPC for 195 hours from November 7, 1983, through February 27, 1984. According to NEA-NH, the telephones were activated on October 31, 1983, at a cost of $342.78 to communicate with union members.4/ NEA-NH contends that it did not discuss the use or activation of the telephones with MPC prior to the activation,

4/ NEA-NH notes that several years ago it expanded its capacity to communicate with its members by having telephone jacks installed in a conference room and thereafter it purchased its own telephones.

and that no deposit costs were paid in connection with the telephones used by MPC.

4. AFL-CIO
5. Iowa Federation of Labor
6. Alabama Labor Council
7. NEA
8. Alabama Education Association

In their responses to the complaint, the AFL-CIO, Iowa Federation of Labor, the Alabama Labor Council, and the NEA have stated that they did not permit their telephones or facilities to be used by MPC. In addition, MPC stated in response to the complaint that no use agreements were entered into with the "AFL-CIO or the NEA at the national level," and that there were no "arrangements" with the Alabama Labor Council for the use of its facilities. As to the Alabama Education Association, MPC's use of this union's facilities and telephones was the subject of MUR 1776, initiated by the same complainant as in the instant matter. On February 21, 1985, the Commission determined to take no further action against MPC and Michael S. Berman, as treasurer, and closed the file.

8504015 31

B. MPC's receipt of telephone installation and deposit costs from the 53 unions involved in the September 18, 1984 reason to believe finding

The 53 unions whose telephones are the subject of the Commission's September 18, 1984, reason to believe finding have provided the Commission with information concerning the circumstances surrounding the use at issue. The information provided by these unions is presented in chart form below.

Union	Number of Phones Used/ Hours Used	Date of Instal-lation (Cost)	Amount of Deposit	Discussion of Installation with MPC	Amount billed MPC for Installation
American Federation of Teachers	Nashua, NH 10 phones used for 10 weeks for 2.4 hrs. day	Dec. 1983 ($623.25)	$ 0	No	$114.49
	Ottumwa, IA 10 phones used for 9 weeks for 2-3 hrs. day	Dec. 1983 ($321.28)	$ 0	No	$ 32.12
	Enid, OK 10 phones used for 1 month for 10 hrs. day	Feb. 1984 $509.28	$ 0	No	$454.26
	Norman, OK 4 phones used for 5 weeks for 7 hrs. a day	Feb. 1984 ($310.01)	$ 0	No	$232.51
	Washington, D.C. 2 phones used for 4 days for a total of 16 hours	1981 or before	$ 0	No	$ 0
	South Portland, ME 1 phone used for 1 month	Several years ago	$ 0	No	$ 0

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Union	Number of Phones Used/ Hours Used	Date of Instal-lation (Cost)	Amount of Deposit	Discussion of Installation with MPC	Amount billed MPC for Installation
American Federation of Teachers, Local 2309	10 phones used for a total of 112 hours	1982 (5 phones) Feb. 1984 (5 phones at $492.)	$ 0	No	$492.86 for the 5 phones in 1984
Massachusetts Federation of Teachers	4 phones used for a total of 4 hours	Dec. 1983 ($208.51)	$ 0	No	$ 0
CWA, Local 1365		Dec. 1983	$ 0	Yes	$182.75 (7-31-84)
CWA, Local 6010	1 phone used for less than 2 months	July 1982 ($62.76)	$ 0	See installation date	$ 0
CWA, Local 4305		Nov. 1983	0	Yes	$175.65 (3-13-84)
MEA-NEA, Local 1	3-4 phones used for 65 hours	Dec. 1982	$ 0	No	$ 0
Massachusetts Teachers Assoc.	5 phones used for 3-5 evenings	April 1977 May 1979 Feb. 1982 June 1982 ($9,466 at 1 location. Not known at 3 other locations)	$ 0	No	$ 0
Burlington County Education Assoc.	8 phones used for 15 days	Installed Sept. 1979 Activated on May 16, 1984. ($61.99)	$ 0	Yes (activation)	$ 61.99
Clark County Classroom Teachers Assoc.	6 phones used for 5 days	Installed 1982. Activated on March 8, 1984. ($114.60)	$ 0	Yes (activation)	$114.60

Union	Number of Phones Used/ Hours Used	Date of Instal-lation (Cost)	Amount of Deposit	Discussion of Installation with MPC	Amount billed MPC for Installation
Bakery, Confectionary and Tobacco Workers Union, Local 275	Phones of Local 275 not used. Phones at Local 275 installed and paid by Bakery, Confectionary and Tobacco Workers International Union.5/		N/A	N/A	N/A
United Union of Roofers, Waterproofers, and Allied Workers, Local 70	543 calls made on 6 days	10 years ago		See installation date	$ 0
Quad City Federation of Labor	15 phones used intermittently for 2 months	Dec. 1983	$ 0	Yes	$431.10
IBEW, Local 252	2 phones used for 2 months	1968	$ 0	See installation date	$ 0
IBEW, Local 2320	4 phones used for 2 months	1980 or before		See installation date	$ 0
IBEW, Local 405	NONE	———	———	———	———
United Brotherhood of Carpenters and Joiners of America, Local 678		Dec. 1983	$ 0	No	$123.63
United Brotherhood of Carpenters and Joiners of America, Local 512		1968		See installation date	$ 0

5/ MPC's use of the International Union's telephones is incorporated into footnote 9 infra.

Union	Number of Phones Used/ Hours Used	Date of Instal-lation (Cost)	Amount of Deposit	Discussion of Installation with MPC	Amount billed MPC for Installation
United Brotherhood of Carpenters and Joiners of America, Local 766	1 phone used for 12 hours	Regular business phone; no special installation		No	$ 0
United Brotherhood of Carpenters and Joiners of America, Local 7	NONE	———	———	———	———
Muskogee and Vicinity Central Labor Council	8 phones used for 3 months	Dec. 1983 (7 phones). 1979 or before (1 phone)	$ 0	Yes	$422.11 for 7 phones
Keokuk Labor Fraternal Council	1 phone	Prior to 1969		See installation date	$ 0
Black Hawk Labor Temple Corp.	NONE	———	———	———	———
UFCW, Local 6P	2 phones used for 1 month	1964	$ 0	No	$ 0
UFCW, Local 47P	10 phones used for 1 month	Jan. 1984 ($231.30)	$ 0	No	$ 23.13
UFCW, Local 1439	1 phone used for 1 week	1980	$ 0	No	$ 0
UFCW, Local 71	10 phones used for 1-1/2 months	Jan. 1984 ($596.55)	$ 0	No	$ 59.65
UFCW, Local 1169	1 phone used for 20 days	1977	$ 0	No	$ 0

Union	Number of Phones Used/ Hours Used	Date of Instal-lation (Cost)	Amount of Deposit	Discussion of Installation with MPC	Amount billed MPC for Installation
UFCW, Local 31P	6 phones used for 1-1/2 months	Jan. 1984 ($204.30)	$1,000 Returned ($26.63 interest earned)	No	$ 20.43
UFCW, Local 1161	1 phone used for 20 days	1966	$ 0	No	$ 0
UFCW	5 phones in Muscatine, IA.	Dec. 21, 1983 ($260.37)	$ 0	No	$ 28.05
	10 phones in Council Bluffs, IA.	Jan. 20, 1984 ($358.52)	$ 0	No	$ 35.86
	3 phones in Cherokee, IA.	Dec. 13, 1983 ($159.54)	$ 0	No	$ 15.96
	7 phones in Mason City, IA.	Jan. 11, 1984 ($322.12)	$ 0	No	$ 32.21
	3 phones in Esterville, IA.	Dec. 15, 1983 ($174.94)	$ 0	No	$ 17.49
Clinton Labor Congress AFL-CIO	NONE	———	———	———	———
IBEW, Local 292	6 phones used for 103 hours	1982	$ 0	No	$ 0
Hotel, Hospital Restaurant and Tavern Employees Union, Local 21	3 phones used for 4-1/2 hours	1975 ($76 includes deposit)		No	$ 0

Union	Number of Phones Used/ Hours Used	Date of Instal-lation (Cost)	Amount of Deposit	Discussion of Installation with MPC	Amount billed MPC for Installation
United Steel-workers of America, Local 3539	1 phone used for 2-1/2 months	Late 1950's		See installation date	$ 0
United Steel-workers of America, Local 2944	10 phones used for 2 months	Dec. 1983 ($544.19)	$ 0	No	$544.19
United Paper-workers Inter-national Union, Local 75	10 phones used for 585 hours in Jan. and Feb. of 1984	Dec. 15, 1983 ($405.67)	$ 0	Yes	$267.72 (4-17-84)
United Paper-Workers Inter-national Union, Local 61	1 phone used to make 37 calls	1972		No	$ 0
Muskegon County UAW, CAP Council	4 phones used for 50 hours	Jan. 1984 ($503.36 for 10 phones)	$ 0	No	$ 0
UAW, Local 442	NONE	———	———	———	———
Greater Flint AFL-CIO	12 phones used for 2 months	1980 and before		See installation dates	$ 0
International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers	13 phones used for 588 hours	1/24/84 ($818.14)	$825 (refunded)		$354.00 (5-5-84)
	8 phones used for 968 hours	3/1/84 ($191.67) Phones used exclusively by MPC	$530 (refunded)		$191.67 (5-5-84)

Union	Number of Phones Used/ Hours Used	Date of Instal-lation (Cost)	Amount of Deposit	Discussion of Installation with MPC	Amount billed MPC for Installation
Maine AFL-CIO	4 Wats lines used for 7 weeks	Jan. 1984	$ 0	Yes	$ 46.89
Washington State Labor Council	Phones at 8 locations for various periods	Dec. 1983	$ 0 in seven locations. Deposit in other location credited in full towards first bill.	Yes	$2,167.30
Ohio AFL-CIO	18 phones used for 7 days	April 1984	$ 0	No	$ 422.10
AFSCME District Council 37, Local 372	From 6 to 18 phones used for 3 hours on 5 nights	March 1983	$ 0	No	$ 0
United Assoc. of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the the U.S. and Canada, Local 190	2 phones used for 2 months	1982 (Purchase and instal-lation of complete phone system was $2,631)	$ 0	No	$ 0
Minneapolis Building and Construction Trades Council	6 phones used for 22 hours	1974 (4 phones) 1977 (1 phone) 1978 (1 phone)		No	$ 0

Union	Number of Phones Used/ Hours Used	Date of Instal-lation (Cost)	Amount of Deposit	Discussion of Installation with MPC	Amount billed MPC for Installation
Trowel Trades, Local 14 International Union of Bricklayers and Allied Craftsmen	2 phones used	1968 (1 phone) 1982 (1 phone)		See installation dates	$ 0
Hillsborough County Central Labor Council	6 phones used for 3 hours daily on 14 days	Jan. 1984 ($328.62)	$ 0	No	$ 0
Brevard County Central Labor Council	NONE	———	———	———	———
Laborers' International Union, AFL-CIO	NONE	———	———	———	———
Wisconsin AFL-CIO	25 phones used for 1 month	March 1984	$ 0	No	$ 224.33

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a) a labor union is prohibited from making a contribution or expenditure in connection with a federal election, and a political committee or candidate is prohibited from knowingly accepting or receiving any contribution prohibited by 2 U.S.C. § 441b(a).

For purposes of 2 U.S.C. § 441b(a) the term "contribution or expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit, or gift or money, or any services, or anything of value to any candidate or campaign committee in connection with a federal election.

As set forth in 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

As presented above, the investigation conducted in this matter has revealed several factual scenarios concerning MPC's alleged use of labor organization telephones. In sum, these may be characterized as situations where: 1) MPC did not use certain labor organizations' telephones; 2) MPC utilized the existing telephones of certain unions; and 3) MPC used union telephones

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that were installed or activated by the unions after discussion of the activation or installation with MPC. Each of these scenarios will be discussed in turn.

A. Unions involved in "RTB" findings against MPC where telephones were not used by MPC

The instant investigation has not produced any evidence that MPC utilized the telephones of 12 of the labor organizations involved in this matter. In their responses to the allegations raised in the complaint the AFL-CIO, Iowa Federation of Labor, Alabama Labor Council, and NEA have stated that their respective telephones were never utilized by MPC. Furthermore, although certain of the unions may have initially entered into lease agreements with MPC concerning use of union telephones and facilities, the Clinton Labor Congress, Brevard County Central Labor Council,6/ Black Hawk Labor Temple Corp., Laborers International Union of North America, United Auto Workers, Local 442, IBEW, Local 405, United Brotherhood of Carpenters and Joiners of America, Local 7, and, the Bakery, Confectionary and Tobacco Workers Union, Local 275 have stated in response to interrogatories issued by the Commission that their telephones also were not used by MPC. In consideration of these circumstances, it is the recommendation of this Office that the Commission find no probable cause to believe MPC, Michael S. Berman, as treasurer, and Walter F. Mondale accepted an in-kind contribution from the above 12 labor unions in connection with

6/ The October 19, 1984, response of MPC notes that the telephones of the Brevard County Central Labor Council were never used by MPC.

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telephone installation and deposit costs.

B. Unions involved in "RTB" findings against MPC where telephones used by MPC were pre-existing telephones

The information obtained in the course of this investigation has demonstrated that all of the telephones of 37 labor unions were installed or activated by the labor unions prior to any discussion with MPC concerning MPC's use of the telephones. In several instances the telephones at issue were installed more than ten years ago. Indeed, in many cases the dates of the installations confirm the fact that there could not have been any discussion with MPC. See pages 9-16 supra.

As stated above, a political committee is prohibited under 2 U.S.C. § 441b(a) from knowingly accepting a contribution from a labor union. A political committee may, however, utilize the facilities, including telephones, of a labor union provided the political committee reimburses the labor union within a commercially reasonable time in the amount of the normal and usual rental charge (11 C.F.R. § 100.7(a)(1)(iii)(B)) for the use of the facilities. 11 C.F.R. § 114.9(d). The phrase "normal and usual rental charge" at 11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to pre-existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such

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phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized by a political committee, the Commission did not require that a portion of installation and deposit costs for pre-existing telephones be paid by the committee.

With respect to those situations where union telephones used by MPC were pre-existing, the term "normal and usual rental charge" should not be considered to include any portion of telephone installation (or activation) or deposit charges initially paid by a union for telephones installed or activated solely for its own purposes. There are no additional installation (or activation) or deposit costs borne by a union as a result of a political committee's use of union telephones that were installed or activated as much as 20 years earlier. In that there were no costs to the union for installation (or activation) or deposits connected with of MPC's use, there are no costs which can reasonably be attributed to the political committee. Thus, where telephones are installed or activated by a labor union for its own purposes, without prior discussion with a political committee, no portion of installation (or activation) and deposit costs need be billed to, and paid by, the political

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committee. It is, therefore, the recommendation of this Office that the Commission find no probable cause to believe MPC, Michael S. Berman, as treasurer, and Walter F. Mondale, violated 2 U.S.C. § 441b(a) by accepting in-kind contributions from: American Federation of Teachers; American Federation of Teachers, Local 2309; Massachusetts Federation of Teachers; CWA, Local 6010; MEA-NEA, Local 1; Massachusetts Teachers Association; United Union of Roofers, Waterproofers and Allied Workers, Local 70; IBEW, Local 252; IBEW, Local 2320; United Brotherhood of Carpenters and Joiners of America, Local 678; United Brotherhood of Carpenters and Joiners of America, Local 512; United Brotherhood of Carpenters and Joiners of America, Local 766; Keokuk Labor Fraternal Council; UFCW, Local 6P; UFCW, Local 47P; UFCW, Local 1439; UFCW, Local 71; UFCW, Local 1169; UFCW, Local 31P; UFCW, Local 1161; UFCW; IBEW, Local 292; Hotel, Hospital, Restaurant and Tavern Employees Union, Local 21; United Steelworkers of America, Local 3539; United Steelworkers of America, Local 2944; United Paperworkers International Union, Local 61; Muskegon County UAW, CAP Council; Greater Flint AFL-CIO; Ohio AFL-CIO; AFSCME District Council 37, Local 372; United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the U.S. and Canada, Local 190; Minneapolis Building and Construction Trades Council; Trowel Trades, Local 14 International Union of Bricklayers and Allied Craftsmen; Hillsborough County Central Labor Council; Wisconsin AFL-CIO; NH AFL-CIO; and NEA-NH.

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C. Unions involved in "RTB" finding where telephones used by MPC were installed or activated after discussion

The evidence in hand further demonstrates that telephones were installed or activated by six labor unions after discussion with MPC. The responses of five of these six unions (Quad City Federation of Labor; Muskogee and Vicinity Central Labor Council; Maine AFL-CIO; Washington State Labor Council; International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers) to interrogatories issued by the Commission are summarized on pages 9-16 supra. MPC's use of the telephones of the sixth union, ISEA, is detailed on pages 6-7 supra.

With regard to specific discussion between the unions and MPC concerning the installation or activation of union telephones prior to MPC's usage, the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths Forgers and Helpers has admitted to such discussions, and the Quad City Federation of Labor has stated that in a conversation between its president and an MPC representative the union stated its intention to install telephones in Davenport, Iowa, and MPC expressed its interest in leasing those phones when not in use by the union. The Muskogee and Vicinity Central Labor Council submitted a similar response which explained that prior to the installation of the seven telephones used by MPC its president "discussed this matter" with the local MPC representative and the "substance of that

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conversation was that respondent intended to install seven phones and that the campaign was interested in leasing those phones when not in use by the Muskogee and Vicinity Central Labor Council." According to the Maine AFL-CIO, its COPE Director discussed with an MPC representative the fact that it "intended to install 4 WATS lines and that the campaign was interested in leasing those lines when they were not in use by the AFL-CIO." Finally, the Washington State Labor Council explained that its COPE Coordinator discussed with an MPC representative the fact that it "intended to install telephones at eight locations in the state and that the Mondale for President Committee was interested in leasing those telephones when not in use by the Washington State Labor Council."

Under 11 C.F.R. § 114.9(d) a political committee that utilizes a labor organization's telephones is required to reimburse for such use in the amount of the normal and usual rental charge which is defined to mean "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution" (11 C.F.R. § 100.7(a)(1)(iii)(B)). Hence, were MPC to install telephones at the same time in the same geographical locations as the labor unions whose telephones it utilized it would have incurred installation and, perhaps, deposit costs.7/ It appears likely

7/ The April 11, 1984, response of MPC to the complaint filed in this matter stated: "As to deposits, [MPC] would not have had to put up cash deposits in any event since it has a Letter of Credit under a National Payment Agreement to cover all deposits for [MPC] phones."

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that the needs of MPC, relayed to the unions during discussions with MPC, may have influenced the arrangement for the installation or activation of the telephones, as well as the timing of the installation or activation. Thus, the absorption of the installation (or activation) and deposit costs of the telephones installed or activated for the partial benefit of MPC should be considered to constitute an in-kind contribution to MPC from the labor unions involved.

At the time the complaint was filed MPC stated that it did not agree to pay any installation and deposit costs, and there is no evidence that these unions billed MPC for any portion of these costs on their own initiative prior to the time of the Commission's reason to believe finding against MPC concerning its use of the respective union's telephones. Consequently, the fact that these unions have apparently now billed MPC for installation (or activation) costs does not vitiate the violation. Such billing is viewed only as a mitigating factor in this matter. It is, therefore, the recommendation of this Office that the Commission find probable cause to believe MPC, Michael S. Berman, as treasurer, and Walter F. Mondale violated 2 U.S.C. § 441b(a) by accepting in-kind contributions from the: Quad City Federation of Labor; Muskogee and Vicinity Central Labor Council; Maine AFL-CIO; Washington State Labor Council; the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths,

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Forgers and Helpers,[8] and, ISEA.[9] It is the further recommendation of this Office that the Commission take no further action against MPC, Michael S. Berman, as treasurer, and Walter F. Mondale with respect to the telephones of the above six unions in view of the fact that these unions have all now billed MPC for a portion of installation costs and the deposits paid by two of the unions have been refunded.

D. Unions not named in the complaint which billed MPC for installation costs prior to "RTB" against MPC

As to the those unions that billed MPC on their own initiative for installation or activation costs (no deposit costs involved) prior to the Commission's finding of reason to believe a violation had occurred in connection with MPC's use of these telephones, it is the recommendation of this Office that the Commission find no probable cause to believe MPC, Michael S. Berman, as treasurer, and Walter F. Mondale, violated 2 U.S.C. § 441b(a) with respect to the telephones of the: United Paperworkers International Union, Local 75; CWA, Local 4305; CWA,

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8/ Although the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers, and Helpers billed MPC for installation costs on May 5, 1984, prior to the time of the Commission's reason to believe finding against MPC with respect to this union's telephones, MPC was not apparently billed for any portion of the deposit costs.

9/ With respect to the 45 additional labor unions identified by MPC on October 19, 1984, whose telephones it utilized, it is the position of this Office that no action be taken against MPC with respect to these unions. Based upon information obtained in this matter to date, it appears likely that virtually no deposit costs were paid by the 45 unions and that only a limited number might have installed or activated telephones after consultation with MPC.

Local 1365; Burlington County Education Association; and, Clark County Classroom Teachers Association.10/

Finally, with respect to MPC's use of the Alabama Education Association's telephones it is the recommendation of this Office that no further action be taken against MPC. The use of the Alabama Education Association's telephones and facilities by MPC was the subject of MUR 1776 which was resolved by the Commission on February 21, 1985.11/

III. General Counsel's Recommendations

A. Find no probable cause to believe the Mondale for President Committee, Inc., Michael S. Berman, as treasurer, and Walter F. Mondale violated 2 U.S.C. § 441b(a) with respect to acceptance of an in-kind contribution from the following labor unions:

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10/ According to the United Paperworkers International Union, Local 75, CWA, Local 1365, and CWA, Local 4305, MPC was billed for the costs at issue on April 17, 1984, July 31, 1984, and March 13, 1984, respectively. Counsel for the Burlington County Education Association and the Clark County Classroom Teachers Association informed staff of this Office that these unions billed MPC for the activation costs at issue prior to September 18, 1984.

11/ In MUR 1776 the Commission determined on November 27, 1984, that MPC and Michael S. Berman, as treasurer, violated 2 U.S.C. §§ 441b(a) and 434(b) by accepting an in-kind contribution from the Alabama Education Association through MPC's use of union telephones and facilities without charge. The facilities in question involved approximately ten telephones and desks which existed "for many years" at the union's headquarters. MPC maintained that it did not authorize the use of the facilities which occurred during a ten day period in March 1984.

1. AFL-CIO
2. Iowa Federation of Labor
3. Alabama Labor Council
4. NEA
5. Clinton Labor Congress
6. Brevard County Central Labor Council
7. Black Hawk Labor Temple Corp.
8. Laborers International Union of North America
9. United Auto Workers, Local 442
10. IBEW, Local 405
11. United Brotherhood of Carpenters and Joiners of America, Local 7
12. Bakery, Confectionary and Tobacco Workers Union, Local 275
13. American Federation of Teachers
14. American Federation of Teachers, Local 2309 (Oklahoma City Federation of Teachers)
15. Massachusetts Federation of Teachers
16. CWA, Local 6010
17. Michigan Education Association-NEA, Local 1 (MEA-NEA)
18. Massachusetts Teachers Association
19. United Union of Roofers, Waterproofers and Allied Workers, Local 70
20. IBEW, Local 252
21. IBEW, Local 2320
22. United Brotherhood of Carpenters and Joiners of America, Local 678
23. United Brotherhood of Carpenters and Joiners of America, Local 512
24. United Brotherhood of Carpenters and Joiners of America, Local 766
25. Keokuk Labor Fraternal Council
26. UFCW, Local 6P
27. UFCW, Local 47P
28. UFCW, Local 1439
29. UFCW, Local 71
30. UFCW, Local 1169
31. UFCW, Local 31P
32. UFCW, Local 1161
33. UFCW
34. IBEW, Local 292
35. Hotel, Hospital, Restaurant and Tavern Employees Union, Local 21
36. United Steelworkers of America, Local 3539
37. United Steelworkers of America, Local 2944
38. United Paperworkers International Union, Local 61
39. Muskegon County UAW CAP Council
40. Greater Flint AFL-CIO
41. Ohio AFL-CIO
42. AFSCME District Council 37, Local 372
43. United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the U.S. and Canada, Local 190

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44. Minneapolis Building and Construction Trades Council
45. Trowel Trades, Local 14 International Union of Bricklayers and Allied Craftsman
46. Hillsborough County Central Labor Council
47. Wisconsin AFL-CIO
48. New Hampshire State Labor Council
49. National Education Association of New Hampshire
50. United Paperworkers International Union, Local 75
51. CWA Local 4305
52. CWA Local 1365
53. Burlington County Education Association
54. Clark County Classroom Teachers Association

B. Find probable cause to believe the Mondale for President Committee, Inc., Michael S. Berman, as treasurer, and Walter F. Mondale violated 2 U.S.C. § 441b(a) by accepting an in-kind contribution from the following labor unions, and take no further action:

1. Quad City Federation of Labor
2. Muskogee and Vicinity Central Labor Council
3. Maine AFL-CIO
4. Washington State Labor Council
5. Iowa State Education Association
6. International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers

C. Take no further action against the Mondale for President Committee, Inc., Michael S. Berman, as treasurer, and Walter F. Mondale with respect to acceptance of an in-kind contribution from the Alabama Education Association.

3/22/65
Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 25, 1985

David Ifshin, General Counsel
Lynn Oliphant, Deputy Counsel
Mondale for President Committee, Inc.
Suite 318
2233 Wisconsin Avenue, N.W.
Washington, D.C.

RE: MUR 1641
Mondale for President Committee, Inc.;
Michael S. Berman, as treasurer;
Walter F. Mondale

Dear Mr. Ifshin and Ms. Oliphant:

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Based on a complaint filed with the Commission on March 6, 1984, and information supplied by your clients, the Commission determined on June 12, 1984, and September 18, 1984, that there is reason to believe your clients, the Mondale for President Committee, Inc. ("MPC"), Michael S. Berman, as treasurer, and Walter F. Mondale, violated 2 U.S.C. § 441b(a) in connection with acceptance of in-kind contributions from 61 labor organizations.

After considering all of the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission: find no probable cause to believe that a violation has occurred by your clients with respect to 54 labor organizations; find probable cause to believe that a violation has occurred by your clients with respect to 6 labor organizations and take no further action; and, take no further action against your clients with respect to one labor organization. The Commission may or may not approve the General Counsel's recommendations.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if

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possible) stating your clients' position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote as to whether there is probable cause to believe a violation has occurred.

Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at 523-4143.

Sincerely,

Charles N. Steele

Charles N. Steele
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1641
New Hampshire State Labor Council)

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

On March 6, 1984, Ralph Hettinga Jr., filed a complaint alleging that the New Hampshire State Labor Council ("NH AFL-CIO") violated 2 U.S.C. § 441b(a) by making an in-kind contribution to the Mondale for President Committee, Inc. ("MPC"). A copy of the complaint was mailed to the NH AFL-CIO on March 9, 1984. On April 11, 1984, the NH AFL-CIO submitted its response to the complaint.

On September 18, 1984, the Commission determined that there is reason to believe the NH AFL-CIO violated 2 U.S.C. § 441b(a) by incurring the deposit costs of nine telephones installed in Dover, New Hampshire */, and by incurring the total deposit and installation costs of one telephone in Lanconia, New Hampshire, which were utilized by MPC. The NH AFL-CIO responded to the Commission's finding on October 10, 1984.

In response to the Commission's finding, the NH AFL-CIO has stated that it paid no deposit charges in connection with the nine telephones used by MPC in Dover, New Hampshire. As to the

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*/ MPC was billed $252.98 for installation costs on April 9, 1984. These costs, therefore, were not included in the Commission's reason to believe finding in this matter. MPC reported reimbursement to the NH AFL-CIO on its 1984 July Report.

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single telephone used by MPC in Lanconia, the NH AFL-CIO notes that the telephone was used for only six hours on one day and that after prorating the installation fee of $84.25 on December 8, 1983, over the 83 days before MPC used the telephone on February 28, 1984, the resulting amount is $.61. Here also, the NH AFL-CIO contends that it did not pay any deposit costs for the telephone. The NH AFL-CIO previously informed the Commission in response to the complaint that the telephones in question were installed in connection with the making of internal communications to AFL-CIO members. In response to the Commission's finding, the NH AFL-CIO stated that the installation of the one telephone in Lanconia (where installation costs were not billed to MPC) was not discussed with MPC prior to its installation. It is, therefore, the position of the NH AFL-CIO that given the de minimus nature of the cost in question, no further action should be taken in this matter. In conclusion, the NH AFL-CIO states with respect to the telephone in Lanconia that "the only guidance which the Commission has given as to what must be included in the 'normal and usual rental charge for telephones (Advisory Opinion 1978-34 and Opinion of Counsel 1976-30) gives no indication that de minimus costs such as this" must be included in the charge for use.

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II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The terms "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that the NH AFL-CIO did not pay any deposit costs for telephones in either Dover or Lanconia, New Hampshire. In addition, the telephone in Lanconia, New Hampshire, whose installation cost is at issue, was installed prior to any discussion with MPC concerning MPC's use of this telephone.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved

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"[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized by a political committee, the Commission did not require that a portion of installation costs for pre-existing telephones be paid by the committee.

With respect to MPC's use of the NH AFL-CIO's telephone in Lanconia, the term "normal and usual rental charge" should not be considered to include any portion of the installation charge initially paid by the NH AFL-CIO for a telephone installed solely for its own purposes. There were no additional installation costs borne by the NH AFL-CIO as a result of MPC's use of the NH AFL-CIO's telephone. In that there were no costs to the NH AFL-CIO for installation connected with MPC's use, there are no costs which can reasonably be attributed to MPC as an in-kind contribution from the NH AFL-CIO. Thus, where as here, a telephone is installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the original installation cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephone. Accordingly, it is the

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recommendation of this Office that the Commission find no probable cause to believe the NH AFL-CIO violated 2 U.S.C. § 441b(a).

III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe the New Hampshire State Labor Council violated 2 U.S.C. § 441b(a).

3/22/85
Date

Charles N. Steele
Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 25, 1985

Margaret E. McCormick, Esquire
AFL-CIO Legal Department
815 - 16th Street, N.W.
Washington, D.C. 20006

Re: MUR 1641
New Hampshire State Labor Council

Dear Ms. McCormick:

Based on a complaint filed with the Commission on March 6, 1984, and information supplied by your client, the New Hampshire State Labor Council ("NH AFL-CIO"), the Commission determined on September 18, 1984, that there was reason to believe the NH AFL-CIO violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred. The Commission may or may not approve the General Counsel's recommendation.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

8504041559

(36)

Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202)523-4143.

Sincerely,

Charles N. Steele

Charles N. Steele
General Counsel

Enclosure
Brief

8504054156O

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
NEA - New Hampshire) MUR 1641

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On March 6, 1984, Ralph Hettinga, Jr. filed a complaint alleging that NEA-New Hampshire ("NEA-NH") violated 2 U.S.C. § 441b(a) by making an in-kind contribution to the Mondale for President Committee, Inc. ("MPC"). A copy of the complaint was mailed to NEA-NH on March 9, 1984. On April 13, 1984, NEA-NH submitted its response to the complaint, which was supplemented by a response on April 18, 1984.

On September 18, 1984, the Commission determined that there is reason to believe NEA-NH violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones utilized by MPC at NEA-NH's facilities. NEA-NH responded to the Commission's finding on October 9, 1984.

In response to the Commission's finding, NEA-NH states that the "Commission's contention that a labor organization cannot bear the full cost of installation of telephones that it installed for its own purposes if it subsequently allows a campaign committee to make use of those telephones -- finds no support in the Act or the Commission's Regulations and, indeed, is contrary to the position suggested in at least one Advisory Opinion" (AO 1978-34). NEA-NH contends that "prior to receiving the Commission's September 25, 1984, letter, NEA-NH had no reason

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to believe that the 'normal and usual rental charge' for telephones included the cost of installation, and, indeed had ample reason to believe otherwise."

With respect to the extent of telephone usage, NEA-NH states that four phones were used for 195 hours from November 7, 1983, through February 27, 1984. According to NEA-NH, the phones were activated on October 31, 1983, to communicate with union members at a cost of $342.78 */. NEA-NH contends that it did not discuss the use or activation of the telephones eventually used by MPC prior to their activation, and that no deposit costs were paid by NEA-NH in connection with the phones used by MPC. The response of NEA-NH concludes that it is prepared to bill MPC for a "pro-rata share of the $342.78 that it expended to activate the telephones in question."

II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

---

*/ NEA-NH notes that several years ago it expanded its capacity to communicate with its members by having telephone jacks installed in a conference room, and it subsequently purchased its own telephones. Hence, the only installation fee at issue is the activation fee of $342.78 in connection with the New Hampshire primary.

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As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that all of the telephones of NEA-NH which were utilized by MPC were installed several years ago and activated prior to any discussion with MPC concerning MPC's use of these telephones. In addition, no deposit costs were paid for the telephones by NEA-NH.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover,

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in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized by a political committee, the Commission did not require that a portion of installation or activation costs for pre-existing telephones be paid by the committee.

With respect to MPC's use of NEA-NH telephones, the term "normal and usual rental charge" should not be considered to include any portion of activation or installation charges initially paid by NEA-NH for telephones installed and activated solely for its own purposes. There were no additional installation or activation costs borne by NEA-NH as a result of MPC's use of NEA-NH's telephones. In that there were no costs to NEA-NH for installation or activation connected with MPC's use there are no costs which can reasonably be attributed to MPC as an in-kind contribution from NEA-NH. Thus, where as here, telephones are installed and later activated by a labor union for its own purposes, without prior discussion with a political committee, no portion of the original installation or activation cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones. Accordingly, it is the recommendation of this Office that the Commission find no probable cause to believe NEA-NH violated 2 U.S.C. § 441b(a).

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III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe NEA-New Hampshire violated 2 U.S.C. § 441b(a).

3/22/85
Date

Charles N. Steele
Charles N. Steele
General Counsel

8504054115 65

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1641
Iowa State Education Association)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On March 6, 1984, Ralph Hettinga, Jr., filed a complaint alleging that the Iowa State Education Association ("ISEA") violated 2 U.S.C. § 441b(a) by making an in-kind contribution to the Mondale for President Committee, Inc. ("MPC"). A copy of the complaint was mailed to ISEA on March 9, 1984. On April 13, 1984, the ISEA submitted its response to the complaint, which was supplemented by a response on April 18, 1984.

On September 18, 1984, the Commission determined that there is reason to believe ISEA violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by MPC at ISEA's facilities. ISEA responded to the Commission's finding on October 9, 1984.

In response to the Commission's finding, ISEA states that 17 telephones were used in three locations (Des Moines, Red Oak, and Algona); in Des Moines, Iowa, seven "existing business phones were used on a Saturday and a Sunday." All of the telephones involved herein were used during the period of January 14, 1984, through February 16, 1984, for a total of 36 hours, according to ISEA. In Red Oak and Algona, Iowa, where ten phones were installed on January 12, 1984, ISEA notes that it billed MPC "for its pro rata share of the cost of installation based on usage." ISEA's response states that the installation costs totalled $332

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at the two locations, and that it billed MPC $33.48 for installation. The ISEA notes that the bill was prepared subsequent to its submission of the affidavit of the ISEA's Executive Director to the Commission on April 13, 1984. According to the ISEA, there were no deposits paid for the phones at issue. The purpose of the telephone installations at Red Oak and Algona "was to have additional telephone capacity for members to contact other members regarding caucus attendance," and "this information was shared by an ISEA staff person with an MPC staff person, who asked if MPC could use the lines when they were not being used in the member contact program."

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II. LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution or expenditure" is defined at 2 U.S.C. § 441b(b)(2) to include any direct or indirect payment, loan, advance, or deposit of money, or anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental

charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The evidence obtained in this matter demonstrates that seven of the 17 telephones utilized by MPC were pre-existing business telephones, and that the remaining telephones were installed after discussion with MPC. In addition, no deposit costs were paid by ISEA for the telephones.

The phrase "normal and usual rental charge" (11 C.F.R. § 114.9(d) and § 100.7(a)(1)(iii)(B)) was given further definition by the Commission in Advisory Opinion 1978-34. With respect to existing business telephones, the Commission determined in the Advisory Opinion that the required payment by the political committee for the use of the telephones involved "[t]he cost ... of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." Moreover, in MURs 1314 and 1369 where the telephones of, respectively, a corporation and a labor organization were utilized by a political committee, the Commission did not require that a portion of installation costs for pre-existing telephones be paid by the committee.

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With respect to MPC's use of the seven pre-existing business telephones, the term "normal and usual rental charge" should not be considered to include any portion of installation charges initially paid by ISEA for telephones installed solely for its own purposes. There were no additional installation costs borne by ISEA as a result of MPC's use of ISEA's telephones. In that there were no costs to ISEA for installation connected with MPC's use, there are no costs which can reasonably be attributed to MPC as an in-kind contribution from ISEA. Thus, where as here, telephones are installed by a labor union for its own purposes, without prior discussion with a political committee, no portion of the original installation cost is required to be billed to, and paid by, a political committee which subsequently utilizes the union's pre-existing telephones.

As to the ten telephones installed in Red Oak and Algona after discussion with MPC, ISEA was required to bill MPC for a portion of the resulting installation costs based upon use. Under 11 C.F.R. § 114.9(d) a political committee that utilizes a labor organization's telephones is required to reimburse for such use in the amount of the normal and usual rental charge which is defined to mean "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution" (11 C.F.R. § 100.7(a)(1)(iii)(B)). Hence, were MPC to install telephones at the same time in the same geographical locations as the ISEA's telephones MPC would have incurred installation charges. It also appears likely that

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the needs of MPC, relayed to ISEA during discussions with MPC, may have influenced the arrangement for the installation of the telephones, as well as the timing of the installation. Thus, the absorption of the installation costs of the telephones installed for the partial benefit of MPC should be considered to constitute an in-kind contribution to MPC from ISEA.

At the time of ISEA's response to the complaint (April 13, 1984), which was over five weeks after the complaint was filed (March 6, 1984), ISEA had not yet billed MPC for installation costs. Hence, it does not appear that ISEA billed for these costs on its own initiative. Moreover, in response to the complaint, and as late as August 20, 1984, MPC stated that it did not pay any installation and deposit costs associated with its use of ISEA telephones. Consequently, although ISEA has now billed MPC $33.48 as its share of the installation costs in Red Oak and Algona, this billing does not vitiate the violation. Such billing is viewed only as a mitigating factor in this matter. Accordingly, it is the recommendation of this Office that the Commission find probable cause to believe ISEA violated 2 U.S.C. § 441b(a) by making an in-kind contribution to MPC in connection with the installation costs of telephones in Red Oak and Algona, Iowa. It is, however, the further recommendation of this Office that the Commission take no further action against ISEA in view of the fact that the amount at issue is only $33.48, and such amount has been billed to MPC.

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III. GENERAL COUNSEL'S RECOMMENDATION

Find probable cause to believe the Iowa State Education Association violated 2 U.S.C. § 441b(a), and take no further action.

3/22/85
Date

Charles N. Steele
General Counsel

8504041571

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 25, 1985

Robert H. Chanin, General Counsel
Joy Koletsky, Esquire
National Education Association
1201 - 16th Street, N.W.
Washington, D.C. 20036

Re: MUR 1641
NEA-New Hampshire;
Iowa State Education Association

Dear Mr. Chanin and Ms. Koletsky:

Based on a complaint filed with the Commission on March 6, 1984, and information supplied by your clients, NEA-New Hampshire and the Iowa State Education Association, the Commission determined on September 18, 1984, that there is reason to believe each of your clients violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe a violation has occurred by NEA-New Hampshire, and that the Commission find probable cause to believe a violation has occurred by the Iowa State Education Association and take no further action. The Commission may or may not approve the General Counsel's recommendations.

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

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202)523-4143.

Sincerely,

Charles N. Steele

Charles N. Steele
General Counsel

Enclosure
Briefs

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85 FEB 5 A9:06

LAW OFFICES
ADAIR, SCANLON AND MCHUGH, P.C.
SUITE 411
1925 K STREET, N.W.
WASHINGTON, D.C. 20006

202/728-2462

Atlanta, Georgia Office:
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J. LEON ADAIR (D.C. & GA.)
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DONALD R. LIVINGSTON (GA.)
J. MICHAEL WALLS (GA.)
JAMES B. COPPESS (D.C. & GA.)
J. PAUL BOUTWELL (D.C.)
MARGARET M. CLARK (D.C.)
DEBORAH GREENFIELD (D.C.)
MARY KATHRYN LYNCH (GA.)
PATRICIA M. SHEA (D.C.)
MARCIA E. FISHMAN (GA.)

February 4, 1985

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

Re: MUR 1641

Dear Mr. Steele:

This supplement to the response of Local 1365 and Local 4305, Communications Workers of America, is submitted pursuant to my telephone conversation on January 28, 1985, with Maura White of your office. In that conversation, Ms. White indicated that she needed to know whether representatives of these locals conferred with representatives of MPC prior to the installation of the telephones at issue in this matter. Subject to the objections raised in our earlier letters on this matter, we submit that information.

Representatives of Local 1365 and Local 4305 conferred with representatives of MPC prior to installation of the telephones. Insofar as the telephones were discussed, the conferences concerned arrangements for MPC to use the telephones and to pay MPC's share of the costs associated with the telephones and their use.

Respectfully submitted,

James B. Coppess

James B. Coppess

JBC/ver

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85 JAN 28 A9:37

LAW OFFICES
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DEBORAH GREENFIELD (D.C.)
MARY KATHRYN LYNCH (GA.)
PATRICIA M. SHEA (D.C.)
MARCIA E. FRIEDMAN (GA.)

White
MUR 1641

January 25, 1985

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT
85 JAN 28 A11:23

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

Re: MUR 1641

Dear Mr. Steele:

This supplement to the response of Local 1365 and Local 4305, Communications Workers of America, is submitted pursuant to my telephone conversation on January 24, 1985, with Maura White of your office. We are submitting this information because Ms. White explained that the Commission's sole remaining concern with respect to this matter is whether Local 1365 and Local 4305 billed MPC for telephone installation charges before or after the Commission found reason to believe a violation of the Act had occurred. The Commission did not ask for the date of these bills in the interrogatories propounded to Local 1365 and Local 4305; moreover, as we explained in the November 1, 1984 responses, the Commission was without authority to propound those interrogatories. In addition, the date of the bills seems irrelevant to the matter under review. Nevertheless, in the interest of finally bringing this matter to a close, and without waiving our objections to the manner in which the Commission has proceeded in this matter, we supply the requested information.

Local 1365 billed MPC for telephone installation charges on July 31, 1984. Local 4305 billed MPC for telephone installation charges on March 13, 1984.

Respectfully submitted,

James B. Coppess

JBC/ver

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LON AND McHUGH, P.C.
SUITE 411
K STREET, N.W.
NGTON, D.C. 20006

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary

FROM: Office of General Counsel

DATE: January 25, 1985

SUBJECT: MUR 1641 - Memorandum and GC's Briefs

The attached is submitted as an Agenda document for the Commission Meeting of _____

Open Session _____

Closed Session _____

CIRCULATIONS		DISTRIBUTION	
48 Hour Tally Vote	[ ]	Compliance	[X]
Sensitive	[ ]		
Non-Sensitive	[ ]	Audit Matters	[ ]
24 Hour No Objection	[ ]	Litigation	[ ]
Sensitive	[ ]		
Non-Sensitive	[ ]	Closed MUR Letters	[ ]
Information	[X]	Status Sheets	[ ]
Sensitive	[X]		
Non-Sensitive	[ ]	Advisory Opinions	[ ]
Other	[ ]	Other (see distribution below)	[ ]

_____ _____

_____ _____

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SENSITIVE

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY

85 JAN 25 P1:02

January 25, 1985

MEMORANDUM TO: The Commission

FROM: Charles N. Steele
General Counsel

SUBJECT: MUR 1641

Attached for the Commission's review are seven briefs stating the position of the General Counsel on the legal and factual issues of the above-captioned matter. A copy of each brief and a letter notifying the respondent of the General Counsel's intent to recommend to the Commission a finding of no probable cause to believe was mailed on January 25, 1985. Following receipt of the respondents' replies to these notices, this office will make a further report to the Commission.

Attachments
1. Briefs (7)
2. Letters (6)

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SENSITIVE

Before the Federal Election Commission

In the Matter of	)	
	)	MUR 1641
Brevard County Central Labor Council	)	
	)	

General Counsel's Brief

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the Brevard County Central Labor Council ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 25, 1984, along with an order to submit written answers. On October 10, 1984, the Union responded to the Commission's finding and order.

The response of the Union states that MPC did contact the Union concerning the use of the Union's telephones, and that "[a] contract, intended to reflect the usual and normal rental charges for our equipment and facilities, was offered" to MPC. The response, notes, however that MPC "chose not to use the telephones, and the contract was never fully executed."

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution" is defined at 2 U.S.C. § 431(8)(A)

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Attachment I (1)

to include anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The record in this matter indicates that the Union's telephones were not in fact utilized by MPC.

In consideration of this circumstance it is clear that the Union did not incur the total installation and deposit costs of telephones utilized by MPC. It is, therefore, the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the Brevard County Central Labor Council violated 2 U.S.C. § 441b(a).

24 January 1975
Date

Charles N. Steele
General Counsel

1(2)

8504154 80

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 25, 1985

Charles L. Bell, President
Brevard County Central Labor Council
1122 Lake Drive
P.O. Box 3787
Cocoa, FL 32922

Re: MUR 1641

Dear Mr. Bell:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, found reason to believe that your client, Brevard County Central Labor Council, violated 2 U.S.C. § 441b(a), a provision of the Act, and instituted an investigation.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred. The Commission may or may not approve the General Counsel's Recommendation.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Brief

8504158 1

Before the Federal Election Commission

In the Matter of	)	
	)	MUR 1641
United Carpenters and Joiners of America, Local 7	)	
	)	

General Counsel's Brief

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe Local 7 of the United Carpenters and Joiners of America ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 25, 1984, along with an order to submit written answers. On October 12 and 29, 1984, the Union responded to the Commission's finding and order.

The response of the Union included the affidavit of its president, George Zastrow. The affidavit states that MPC entered into a written agreement with the Union on January 1, 1984, "authorizing the use of the Union's phone bank." However, the affidavit further states that MPC "never used the phone bank." According to the affiant, he inquired of both MPC and the Union's staff in order to determine if the Union's telephones had been used by MPC, and subsequently determined that no such use was ever made by MPC.

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is

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prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution" is defined at 2 U.S.C. § 431(8)(A) to include anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The record in this matter indicates that the Union entered into an agreement with MPC for the use of the Union's telephones, but that no use was ever made of these telephones by MPC.

In consideration of this circumstance it is clear that the Union did not incur the total installation and deposit costs of telephones utilized by MPC. It is, therefore, the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe Local 7 of the United Carpenters and Joiners of America violated 2 U.S.C. § 441b(a).

24 January 1985
Date

Charles N. Steele
General Counsel

1(5)

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 25, 1985

Roger A. Jensen, Esquire
Peterson, Bell, and Converse
2100 American National Bank Building
101 East Fifth Street
St. Paul, MN 55101

Re: MUR 1641
United Carpenters and
Joiners of America,
Local 7

Dear Mr. Jensen:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, found reason to believe that your client, the United Carpenters and Joiners of America, Local 7, violated 2 U.S.C. § 441b(a), a provision of the Act, and instituted an investigation.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred. The Commission may or may not approve the General Counsel's Recommendation.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Clinton Labor Congress, AFL-CIO) MUR 1641
)
)

General Counsel's Brief

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the Clinton Labor Congress, AFL-CIO ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 25, 1984, along with an order to submit written answers. On November 6, 1984, the Union responded to the Commission's finding and order.

The response of the Union states that its president, Charles Smith, entered into a "use agreement" with MPC. The response, however, continues on to state that MPC did not actually use "telephones or any other facilities belonging" to the Union.

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution" is defined at 2 U.S.C. § 431(8)(A) to include anything of value made by any person for the purpose of influencing any election for federal office.

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As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The record in this matter indicates that the Union entered into an agreement with MPC for the use of the Union's facilities, but that no use was made of these facilities or telephones by MPC. In consideration of this circumstance, it is clear that the Union did not incur that total installation and deposit costs of telephones utilized by MPC. It is, therefore, the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the Clinton Labor Congress, AFL-CIO violated 2 U.S.C. § 441b(a).

24 Jan 1985
Date

Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Black Hawk Labor Temple Corporation	)	MUR 1641
	)	

General Counsel's Brief

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the Black Hawk Labor Temple Corporation ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 25, 1984, along wtih an order to submit written answers. On November 1, 1984, the Union responded to the Commission's finding.

The response of the Union states that it "did not lease or otherwise permit the use of any of the telephones belonging to the organization" by MPC. The Union notes that although MPC "leased an office from the Corporation from December 16, 1984, until January 9, 1984," the office used by MPC had no phone. According to the Union, MPC was billed for its use of office space at the same rate the Union charges all organizations leasing office space in the Union's building.

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

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The term "contribution" is defined at 2 U.S.C. § 431(8)(A) to include anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The record in this matter indicates that the Union's telephones were not in fact utilized by MPC.

In consideration of this circumstance it is clear that the Union did not incur the total installation and deposit costs of telephones utilized by MPC. It is, therefore, the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

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III. General Counsel's Recommendation

Find no probable cause to believe the Black Hawk Labor Temple Corporation violated 2 U.S.C. § 441b(a).

24 January 1985
Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 25, 1985

Margaret E. McCormick, Esquire
AFL-CIO
815 Sixteenth Street, NW
Washington, D.C. 20006

Re: MUR 1641
Black Hawk Labor
Temple Corporation;
Clinton Labor Congress
AFL-CIO

8504041589

Dear Ms. McCormick:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, found reason to believe that your clients, the Black Hawk Labor Temple Corporation and the Clinton Labor Congress AFL-CIO, violated 2 U.S.C. § 441b(a), a provision of the Act, and instituted an investigation in this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred by each of your clients. The Commission may or may not approve the General Counsel's Recommendation.

Submitted for your review is a brief with respect to each of your clients stating the position of the General Counsel on the legal and factual issues of the cases. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief and (10 copies if possible) on behalf of each of your clients stating their position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Brief

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Before the Federal Election Commission

In the Matter of	)	
	)	MUR 1641
Laborers International Union of North America, AFL-CIO	)	
	)	

General Counsel's Brief

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe the Laborers International Union of North America, AFL-CIO ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 25, 1984, along with an order to submit written answers. On October 29, 1984, the Union responded to the Commission's finding and order.

The response submitted by the Union states that it "has not permitted [MPC] to use any phones of the International Union." The affidavit of Jack Curran, the Union's Political Director, was included with the Union's response. According to the affidavit, Mr. Curran is "not aware" that the Union or any of its authorized agents permitted the telephones of the Union to be used by MPC, and no leases or other agreements regarding the use of the Union's telephones by MPC "have ever been authorized and/or approved by the International Union."

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is

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prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution" is defined at 2 U.S.C. § 431(8)(A) to include anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The record in this matter indicates that the Union's telephones were not in fact utilized by MPC.

In consideration of this circumstance it is clear that the Union did not incur the total installation and deposit costs of telephones utilized by MPC. It is, therefore, the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

III. General Counsel's Recommendation

Find no probable cause to believe the Laborers International Union of North America, AFL-CIO violated 2 U.S.C. § 441b(a).

24 January 1985
Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 25, 1985

Orrin Baird, Esquire
Converton, Bernstein and Katz
Suite 800
1899 L Street, NW
Washington, D.C. 20036

Re: MUR 1641
Laborers' International
Union

Dear Mr. Baird:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, found reason to believe that your client, the Laborers' International Union, violated 2 U.S.C. § 441b(a), a provision of the Act, and instituted an investigation.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred. The Commission may or may not approve the General Counsel's Recommendation.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

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Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Brief

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Before the Federal Election Commission

In the Matter of	)	
	)	MUR 1641
International Brotherhood of Electrical Workers, Local 405	)	
	)	

General Counsel's Brief

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe Local 405 of the International Brotherhood of Electrical Workers ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 25, 1984, along with an order to submit written answers. On October 29, 1984, the Union responded to the Commission's finding and order.

In its response the Union states that it rents space to several different labor organizations in its building in Cedar Rapids, Iowa. According to the Union, in December 1983 and January 1984 one of its tenants "utilized rented office space to establish a telephone bank," but the Union "does not know whether those telephones were made available to [MPC] or whether any installation or deposit costs were incurred by that tenant." The Union's response notes that although AT&T incorrectly billed the Union for the telephones used by its tenant, the Union "did not have any contacts or any contractual relationship with [MPC] regarding the use of telephones." In conclusion, the Union

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emphasizes that it did not make its own telephones or office space available to MPC.

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution" is defined at 2 U.S.C. § 431(8)(A) to include anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The record in this matter indicates that the Union's telephones were not in fact utilized by MPC.

In consideration of this circumstance it is clear that the Union did not incur the total installation and deposit costs of telephones utilized by MPC. It is, therefore, the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

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III. General Counsel's Recommendation

Find no probable cause to believe Local 405 of the International Brotherhood of Electrical Workers violated 2 U.S.C. S 441b(a).

24 February 1981
Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 25, 1985

Robert Kurnick, Esquire
Sherman, Dunn, Cohen, Leifer and Counts
Suite 801
1125 15th Street
Washington, D.C. 20005

Re: MUR 1641
IBEW, Local 405

Dear Mr. Kurnick:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, found reason to believe that your client, the International Brotherhood of Electrical Workers, Local 405, violated 2 U.S.C. § 441b(a), a provision of the Act, and instituted an investigation.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred. The Commission may or may not approve the General Counsel's Recommendation.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Brief

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Before the Federal Election Commission

In the Matter of	)	
	)	MUR 1641
UAW, Local 442	)	
	)	

General Counsel's Brief

I. Statement of the Case

On September 18, 1984, the Commission determined that there is reason to believe Local 442 of the UAW ("Union") violated 2 U.S.C. § 441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale for President Committee, Inc. ("MPC") at the Union's facilities. Notification of the Commission's finding was mailed to the Union on September 25, 1984, along with an order to submit written answers. On October 29, 1984, the Union responded to the Commission's finding and order.

The response of the Union states that it "agreed to allow the MPC to rent the use of the telephone in UAW Local 442's business office" which was installed "many years ago." According to the response, "[a]fter entering into the agreement, the MPC apparently changed its mind and decided that it did not want to use UAW Local 442's telephone." Hence, the affidavit of the Union's president, Charles Chandler, concludes that the MPC never actually used the telephone, or any other facilities and equipment of UAW Local 442.

II. Legal Analysis

Pursuant to 2 U.S.C. § 441b(a), a labor organization is

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prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution" is defined at 2 U.S.C. § 431(8)(A) to include anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

The record in this matter demonstrates that the Union entered into an agreement with MPC for the use of the Union's facilities and telephone, but that no use was made of these facilities or telephone by MPC.

In consideration of this circumstance it is clear that the Union did not incur the total installation and deposit costs of telephones utilized by MPC. It is, therefore, the recommendation of this Office that the Commission find no probable cause to believe the Union violated 2 U.S.C. § 441b(a).

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III. General Counsel's Recommendation

Find no probable cause to believe Local 442 of the UAW violated 2 U.S.C. § 441b(a).

24 January 1985
Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 25, 1985

Alan V. Reuther
Assistant General Counsel
UAW
1757 N Street, N.W.
Washington, D.C. 20036

Re: MUR 1641
UAW, Local 442

Dear Mr. Reuther:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 18, 1984, found reason to believe that your client, UAW, Local 442, violated 2 U.S.C. § 441b(a), a provision of the Act, and instituted an investigation.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred. The Commission may or may not approve the General Counsel's Recommendation.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

Should you have any questions, please contact Maura White, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Brief

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LAW OFFICES OF RONALD ROSENBERG
ATTORNEYS AT LAW
1730 K STREET, N.W.
SUITE 1004
WASHINGTON, D.C. 20006
(202) 833-4180

RONALD ROSENBERG
ELLEN RANZMAN
LEO E. WETZEL

RECEIVED AT THE FEC
GC# 6363
85 JAN 11 A9:00

January 9, 1985

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

Re: MUR 1641

Dear Mr. Gross:

The Bakery, Confectionery and Tobacco Workers International Union has been notified that Local 275 in Presque Isle, Maine, has responded to your letter of October 17, 1984. The International has asked me to supplement that response with information they possess.

The phone bill for the period in question included costs of installation. There was no cost for deposit. The costs, including installation costs, were divided on a pro rata basis as contemplated by the Commission's rules. The Mondale Campaign was billed for and paid its pro rata share of all costs. Contrary to the allegation, the Mondale Campaign has paid its share of the installation costs and has not failed to pay its share of the deposit costs because there were none.

Please note that the phone banks to which the letter refers were used by the Mondale Campaign and AFL-CIO on the following dates: February 2, 1984, to March 4, 1984. Of that time 177 hours (84%) were for AFL-CIO use and 34 (16%) were for Mondale use.

The phone bill for these phone banks for this period of time was paid by the International Union. They, in turn, billed the Mondale Campaign for 16% ($91.67) of the phone bill ($572.91). In addition, the Mondale Campaign was billed $26.56 for office space, etc. The campaign has paid the bill for the billed amount of $118.23. Since, as noted, the phone bill included the cost of installation, the Mondale Campaign paid its share of that item.

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We urge that the charge be dismissed as there has been no violation.

Very sincerely yours,

Ronald Rosenberg

rr/jat
cc: Ms. Carolyn Jacobson

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FICES OF RONALD ROSENBERG
ATTORNEYS AT LAW
1730 K STREET, N.W.
SUITE 1004
WASHINGTON, D.C. 20006

3 5 0 4 0 3 1 1 6

WASHINGTON DC
PM
10 JAN
1985

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

85 JAN 11 A9:00

RECEIVED AT THE FEC

UNITED PAPERWORKERS INTERNATIONAL UNION

GCC#6184

WAYNE E. GLENN
President

LEGAL DEPARTMENT
LYNN AGEE, Esq.
MICHAEL HAMILTON, Esq.
MELINDA J. BRANSCOMB, Esq.
MARK M. BROOKS, Esq.

December 27, 1984

Ms. Maura White
Staff Attorney
Federal Election Commission
Washington, D.C. 20463

84 DEC 31 P12:57

Re: United Paperworkers International Union, Local 75
MUR 1641

Dear Ms. White:

You will recall that in my letter of October 29, 1984, I mentioned that Vice President and Political Education Program Director George O'Bea sent MPC an invoice representing all the costs incurred by the Union in connection with MPC's use of the Union's facilities and equipment from December 15, 1983 through February 28, 1984, totalling $1727.56. A copy of that invoice was attached to that letter as Exhibit B. This will advise you that MPC recently submitted a check in the amount of $1727.56 to the Union representing full payment of all the costs incurred by the Union in connection with MPC's use of the Union's facilities and equipment.

Sincerely,

Michael Hamilton

Michael Hamilton

MH:sq

cc: George O'Bea, PEP Director
John Defee, Secretary/Treasurer
Eldon Hebert, Vice President, Region I
Ken Ramage, International Representative
Ed Ferraro, President, UPIU Local 75
P.O. Box G, Berlin, NH 03570

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UNITED PAPERWORKERS
INTERNATIONAL UNION
P.O. Box 1475
Nashville, Tennessee 37202

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RECEIVED AT THE FEC
84 DEC 31 AM : 42

Ms. Maura White
Staff Attorney
Federal Election Commission
Washington, D.C. 20463

GCC#6015
MUR 1641
White

FEDERAL ELECTION COMMISSION

MATTER-UNDER-REVIEW 1641

RESPONDENT, AMERICAN FEDERATION OF TEACHERS

ANSWER TO FEDERAL ELECTION
COMMISSION'S INTERROGATORIES

RECEIVED
FEDERAL ELECTION
COMMISSION
'81 APR 13 P3:13

COMES NOW the Respondent, American Federation of Teachers ("AFT"), and for its answers to the Federal Election Commission's interrogatories states the following:

Interrogatory No. 1: State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

Answer. Yes.

Interrogatory No. 2: If the answer to question 1 is yes, state:

a) the date of such use by MPC;

b) the location of the telephones used;

c) the total amount of time the telephones were used by MPC; and,

d) the number of telephones used by MPC.

Interrogatory No. 3: If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;

b) the cost of the installations;

c) the purpose of the installations;

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d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;

e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and

f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

Answer:

2-3. AFT telephones were used by MPC in the following locations: Nashua, New Hampshire; Ottumwa, Iowa; Enid, Oklahoma; Norman, Oklahoma; Washington, D.C.; and South Portland, Maine.[1/] For purposes of simplification, AFT's responses to Interrogatories No. 2 and 3 are set forth separately for each location.

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Nashua, New Hampshire

2a. AFT telephones in Nashua, New Hampshire were used by MPC from December 29, 1983 through March 14, 1983.

1/ In addition, AFT telephones were used by MPC in Boston, Massachusetts in conjunction with the Masssachusetts Federation of Teachers and in Oklahoma City, Oklahoma in conjunction with the Oklahoma City Federation of Teachers. Both Locals have submitted responses to these interrogatories under separate cover, and, accordingly, their responses are not repeated herein.

2b. The telephones were located at 142 Main Street, Nashua, New Hampshire.

2c. The telephones were used, on the average, for approximately 2.4 hours per day.

2d. Ten telephones were used by MPC.

3a. The telephones were installed in the latter part of December, 1983.

3b. The cost of the installation for the telephones was $623.25.

3c. The telephones that were leased to MPC were installed for use in ongoing internal activity, such as membership recruitment and partisan communications to AFT members.

3d. To the best of Respondent's belief, no discussions concerning the use or installation of the above-mentioned telephones were held with any agent of MPC prior to the installation of the telephones.

3e. No deposits costs were incurred by AFT in connection with the installation of telephones used by MPC.

3f. No deposit costs were incurred by AFT in connection with the installation of telephones used by MPC.

MPC was billed $114.49 for installation, which amounts to 20% of the cost of installation.

8504054160

Ottumwa, Iowa

2a. AFT telephones in Ottumwa, Iowa were used by MPC from December 10, 1984 through February 20, 1984.

2b. The telephones were located at 211 E Second Street, Suite 100, Ottumwa, Iowa 52501.

2c. On the average, the telephones were used for approximately 2-3 hours per day.

2d. Ten telephones were used by MPC.

3a. The telephones were installed in December, 1983.

3b. The cost of the installation for the telephones, including the initial, prorated monthly service charge was $321.28.

3c. The telephones leased to MPC were installed for use in ongoing, internal AFT activity, such as membership recruitment and partisan communications to AFT members.

3d. To the best of Respondent's belief, no discussions concerning the use or installation of the above-mentioned telephones were held with any agent of MPC prior to the installation of the telephones.

3e. No deposit costs were incurred by AFT in connection with the installation of telephones used by MPC.

3f. No deposit costs were incurred by AFT in connection with the installation of telephones used by MPC. MPC was billed $32.12 for installation.

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Enid, Oklahoma

2a. AFT telephones in Enid, Oklahoma were used by MPC from February 9, 1984 through March 14, 1984.

2b. The telephones were located at 601 North 26th Street, Enid, Oklahoma.

2c. The telephones were used by MPC for approximately 10 hours on most days.

2d. Ten telephones, including four watts lines, were used by MPC.

3a. The telephones were installed in the beginning of February, 1984.

3b. The cost of the installation for the telephone, including the initial, prorated monthly service charge, was $509.28.

3c. The telephones leased to MPC were installed for use in ongoing, internal AFT activity, such as membership recruitment and partisan communications to AFT members.

3d. To the best of Respondent's belief, no discussions concerning the use or installation of the above-mentioned telephones were held with any agent of MPC prior to the installation of the telephones.

3e. No deposit costs were incurred by AFT in connection with the installation of telephones used by MPC.

3f. No deposit costs were incurred by AFT in connection with the installation of telephones used by MPC.

MPC was billed $454.26 for installation costs, including the initial, prorated monthly service charge.

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Norman Oklahoma

2a. AFT telephones were used by MPC from February 16, 1984 through March 25, 1984.

2b. The telephones were located at 2233 West Lindsay, Suite 113, Norman, Oklahoma.

2c. To the best of our information, the telephones were used for approximately 7 hours on most days.

2d. Four telephones were used by MPC.

3a. The telephones were installed in February, 1984.

3b. The cost of the installation for the telephones was $310.01.

3c. The telephones that were leased to MPC were installed for use in ongoing internal activity, such as membership recuitment and partisan communications to AFT members.

3d. To the best of Respondent's belief, no discussions concerning the use or installation of the above-mentioned telephones were held with any agent of MPC prior to the installation of the telephones.

3e. No deposits costs were incurred by AFT in connection with the installation of telephones used by MPC.

3f. No deposit costs were incurred by AFT in connection with the installation of telephones used by MPC.

MPC was billed $232.51 for installation, which amounts to 75% of the cost of installation.

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Washington, D.C.

2a. AFT telephones in Washington, D.C. were used by MPC on the following four dates: January 26, 1984; January 27, 1984; January 30, 1984; and February 1, 1984.

2b. The telephones were located at 11 Dupont Circle, N.W., 5th Floor, Washington, D.C. 20036.

2c. The telephones were used by MPC for a total of 16 hours.

2d. Two telephones were used by MPC.

3a. The telephones used by MPC had been installed at AFT's national headquarters at least three years ago. Respondent is not certain of the exact date of installation of the telephones.

3b. Information concerning the installation cost of the two telephones used by MPC is not currently available.

3c. The telephones that were leased to MPC were installed for use in AFT's ordinary and routine affairs.

3d. To the best of Respondent's belief, no discussions concerning the use or installation of the above-mentioned telephones were held with any agent of MPC prior to the installation of the telephones.

3e. No deposit costs were incurred by AFT in connection with the installation of telephones used by MPC.

8504161 4

3f. No deposits costs were incurred by AFT in connection with the installation of telephones used by MPC.

MPC was not billed for installation costs.

South Portland, Maine

2a. An AFT telephone was used by MPC in South Portland, Maine from September 1, 1983 to October 1, 1983.

2b. The telephone was located at the Maine Federation of Teachers Organization Committee, 725 Main Street, South Portland, Maine 04106.

2c. Information regarding the exact amount of hours the telephone was used in not currently in our possession.

2d. One telephone was used by MPC.

3a. The telephone was installed several years ago, at minimum.

3b. Information regarding the cost of the installation for the telephone is not currently in our possession.

3c. The telephone that was leased to MPC was installed for ordinary and routine use by the Maine Federation of Teachers Organization Committee.

3d. No discussions concerning the use or installation of the above-mentioned telephone were held with any agent of MPC prior to the installation of the telephones.

3e. No deposit costs were incurred by AFT in connection with the installation of the telephone used by MPC.

8504161 5

3f. No deposits costs were incurred by AFT in connection with the installation of the telephone used by MPC.

MPC was not billed for any portion of the installation costs.

Respondent certifies, that to the best of its knowledge and belief, its foregoing answers to the Federal Election Commission's interrogatories are true and accurate. Respondent, however, reserves the right to supplement its answers to these interrogatories if additional information comes into its possession.

Respectfully submitted,

William C. Oldaker
Counsel for American Federation of Teachers

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RECEIVED AT THE FEC
GCC#6017
84 DEC 17 P5:41

FEDERAL ELECTION COMMISSION

MATTER-UNDER-REVIEW 1641

RESPONDENT, MASSACHUSETTS FEDERATION OF TEACHERS

ANSWER TO FEDERAL ELECTION COMMISSION'S INTERROGATORIES

84 DEC 18 P1:39

COMES NOW the Respondent, Massachusetts Federation of Teachers, and for its answers to the Federal Election Commission's interrogatories states the following:

Interrogatory No. 1: State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

Answer. Yes.

Interrogatory No. 2: If the answer to question 1 is yes, state:

a) the date of such use by MPC;

b) the location of the telephones used;

c) the total amount of time the telephones were used by MPC; and,

d) the number of telephones used by MPC.

Answer:

2a. Massachusetts Federation of Teachers' telephones were used by MPC on the following five dates: January 17, 1984; January 18, 1984; January 23, 1984; January 25, 1984; and January 26, 1984.

8504054116017

2b. The telephones were located at 296 Boylston Street, Boston, Massachusetts 02116.

2c. The telephones were used for four hours, total, for the above five dates.

2d. Four telephones were used by MPC.

Interrogatory No. 3: If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;

b) the cost of the installations;

c) the purpose of the installations;

d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;

e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and

f) the amount of which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

Answer:

3a. The telephones were installed on December 23, 1983.

3b. The cost of the installation for the telephones was $208.51.

8504618

3c. The telephones that were leased to MPC were installed for use in ongoing organizing efforts to win collective bargaining rights in locals which are not represented by the Massachusetts Federation of Teachers.

3d. No discussions concerning the use or installation of the above-mentioned telephones were held with any agent of MPC prior to the installation of the telephones.

3e. No deposit costs were incurred by the Massachusetts Federation of Teachers in connection with the installation of telephones used by MPC.

3f. No deposits costs were incurred by the Massachusetts Federation of Teachers in connection with the installation of telephones used by MPC.

MPC was not billed for any portion of the installation costs.

Respondent certifies, that to the best of its knowledge and belief, its foregoing answers to the Federal Election Commission's interrogatories are true and accurate. Respondent, however, reserves the right to supplement its

8504169

answer to these interrogatories if additional information comes into its possession.

Respectfully submitted,

William C. Oldaker

Counsel for Massachusetts
Federation of Teachers

8504054 1620

RECEIVED AT THE FEC
GCC#6016
84 DEC 17 P5:

FEDERAL ELECTION COMMISSION

MATTER-UNDER-REVIEW 1641

RESPONDENT, OKLAHOMA CITY FEDERATION OF TEACHERS, LOCAL 2309

ANSWER TO FEDERAL ELECTION COMMISSION'S INTERROGATORIES

COMES NOW the Respondent, Oklahoma City Federation of Teachers, Local 2309 ("Oklahoma Local") and for its answers to the Federal Election Commission's interrogatories states the following:

Interrogatory No. 1: State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

Answer. Yes.

Interrogatory No. 2: If the answer to question 1 is yes, state:

a) the date of such use by MPC;

b) the location of the telephones used;

c) the total amount of times the telephones were used by MPC; and,

d) the number of telephones used by MPC.

Answer:

2a. The Oklahoma Local's telephones were used by MPC on the following twenty dates: January 28, 1984; February 11, 13, 16, 18, 21, 23, 25, 27 and 28, 1984; and March 1-6 and 9-12, 1984.

8504021

2b. The telephones were located at 1524 Linwood Boulevard, Oklahoma City, Oklahoma 73106.

2c. The telephones were used for approximately 112 hours, total, in the above twenty dates.

2d. Ten telephones were used by MPC.

Interrogatory No. 3: If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;

b) the cost of the installations;

c) the purpose of the installations;

d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;

e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and

f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

Answer:

3a. Five of the telephones were installed by the Oklahoma Local sometime in 1982. The other five telephones

8504162 2

were installed by the Oklahoma Local on February 7, 1984.

3b. Information concerning the installation cost of the five telephones installed by the Oklahoma Local in 1982 is not currently available.

The cost of installing the additional five telephones, including the initial, prorated monthly charge, was $492.86.

3c. Five telephones were installed in 1982 by the Oklahoma Local for routine use in all of the Local's activities. The other five telephones that were leased to MPC were installed for use in ongoing internal activity, such as membership recruitment and partisan communications to local members, as well as for local election activity.

3d. To the best of Respondent's belief, no discussions concerning the use or installation of the above-mentioned telephones were held with any agent of MPC prior to the installation of the telephones.

3e. No deposit costs were incurred by the Oklahoma Local in connection with the installation of telephones used by MPC.

3f. No deposits costs were incurred by the Oklahoma Local in connection with the installation of telephones used by MPC.

MPC was billed $492.86 for the installation of five telephones, as well as the initial, prorated monthly charge.

8504054162 3

Respondent certifies, that to the best of its knowledge and belief, its foregoing answers to the Federal Election Commission's interrogatories are true and accurate. Respondent, however, reserves the right to supplement its answers to these interrogatories if additional information comes into its possession.

Respectfully submitted,

William C. Oldaker

Counsel for Oklahoma City Federation of Teachers, Local 2309

3504054162 4

MEMORANDUM F
LESLIE J. KERMAN

Maura,

Enclosed please find copies of our responses to the interrogatories. The third response should be following in about one hour.

Best Wishes,

Leslie Kerman

8504054162 5

OGC#6006

RECEIVED
FEDERAL ELECTION COMMISSION
1984 JAN 27 PM 2:17

FEDERAL ELECTION COMMISSION

MATTER-UNDER-REVIEW 1641

RESPONDENT, MASSACHUSETTS FEDERATION OF TEACHERS

ANSWER TO FEDERAL ELECTION COMMISSION'S INTERROGATORIES

COMES NOW the Respondent, Massachusetts Federation of Teachers, and for its answers to the Federal Election Commission's interrogatories states the following:

Interrogatory No. 1: State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

Answer. Yes.

Interrogatory No. 2: If the answer to question 1 is yes, state:

a) the date of such use by MPC;

b) the location of the telephones used;

c) the total amount of time the telephones were used by MPC; and,

d) the number of telephones used by MPC.

Answer:

2a. Massachusetts Federation of Teachers' telephones were used by MPC on the following five dates: January 17, 1984; January 18, 1984; January 23, 1984; January 25, 1984; and January 26, 1984.

8504054162 6

2b. The telephones were located at 296 Boylston Street, Boston, Massachusetts 02116.

2c. The telephones were used for four hours, total, for the above five dates.

2d. Four telephones were used by MPC.

Interrogatory No. 3: If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;

b) the cost of the installations;

c) the purpose of the installations;

d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;

e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and

f) the amount of which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

Answer:

3a. The telephones were installed on December 23, 1983.

3b. The cost of the installation for the telephones was $208.51.

8504162 7

3c. The telephones that were leased to MPC were installed for use in ongoing organizing efforts to win collective bargaining rights in locals which are not represented by the Massachusetts Federation of Teachers.

3d. No discussions concerning the use or installation of the above-mentioned telephones were held with any agent of MPC prior to the installation of the telephones.

3e. No deposit costs were incurred by the Massachusetts Federation of Teachers in connection with the installation of telephones used by MPC.

3f. No deposits costs were incurred by the Massachusetts Federation of Teachers in connection with the installation of telephones used by MPC.

MPC was not billed for any portion of the installation costs.

Respondent certifies, that to the best of its knowledge and belief, its foregoing answers to the Federal Election Commission's interrogatories are true and accurate. Respondent, however, reserves the right to supplement its

8504054162 8

answer to these interrogatories if additional information comes into its possession.

Respectfully submitted,

William C. Oldaker

Counsel for Massachusetts
Federation of Teachers

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FEDERAL ELECTION COMMISSION

MATTER-UNDER-REVIEW 1641

RESPONDENT, OKLAHOMA CITY FEDERATION OF TEACHERS, LOCAL 2309

ANSWER TO FEDERAL ELECTION COMMISSION'S INTERROGATORIES

COMES NOW the Respondent, Oklahoma City Federation of Teachers, Local 2309 ("Oklahoma Local") and for its answers to the Federal Election Commission's interrogatories states the following:

Interrogatory No. 1: State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

Answer. Yes.

Interrogatory No. 2: If the answer to question 1 is yes, state:

a) the date of such use by MPC;

b) the location of the telephones used;

c) the total amount of times the telephones were used by MPC; and,

d) the number of telephones used by MPC.

Answer:

2a. The Oklahoma Local's telephones were used by MPC on the following twenty dates: January 28, 1984; February 11, 13, 16, 18, 21, 23, 25, 27 and 28, 1984; and March 1-6 and 9-12, 1984.

8504054163O

2b. The telephones were located at 1524 Linwood Boulevard, Oklahoma City, Oklahoma 73106.

2c. The telephones were used for approximately 112 hours, total, in the above twenty dates.

2d. Ten telephones were used by MPC.

Interrogatory No. 3: If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;

b) the cost of the installations;

c) the purpose of the installations;

d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;

e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and

f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

Answer:

3a. Five of the telephones were installed by the Oklahoma Local sometime in 1982. The other five telephones

8504163 1

were installed by the Oklahoma Local on February 7, 1984.

3b. Information concerning the installation cost of the five telephones installed by the Oklahoma Local in 1982 is not currently available.

The cost of installing the additional five telephones, including the initial, prorated monthly charge, was $492.86.

3c. Five telephones were installed in 1982 by the Oklahoma Local for routine use in all of the Local's activities. The other five telephones that were leased to MPC were installed for use in ongoing internal activity, such as membership recruitment and partisan communications to local members, as well as for local election activity.

3d. To the best of Respondent's belief, no discussions concerning the use or installation of the above-mentioned telephones were held with any agent of MPC prior to the installation of the telephones.

3e. No deposit costs were incurred by the Oklahoma Local in connection with the installation of telephones used by MPC.

3f. No deposits costs were incurred by the Oklahoma Local in connection with the installation of telephones used by MPC.

MPC was billed $492.86 for the installation of five telephones, as well as the initial, prorated monthly charge.

8504163 2

Respondent certifies, that to the best of its knowledge and belief, its foregoing answers to the Federal Election Commission's interrogatories are true and accurate. Respondent, however, reserves the right to supplement its answers to these interrogatories if additional information comes into its possession.

Respectfully submitted,

William C. Oldaker

Counsel for Oklahoma City Federation of Teachers, Local 2309

8504041633

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES N. STEELE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JODY C. RANSOM

DATE: DECEMBER 14, 1984

SUBJECT: MUR 1641 - Comprehensive Investigative Report #2 signed December 11, 1984

The above-captioned matter was circulated to the Commission on a 24 hour no-objection basis at 4:00, December 12, 1984.

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

8504041634

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary

FROM: Office of General Counsel

DATE: December 12, 1984

SUBJECT: MUR 1641 - Comprehensive Investigative Report #2

The attached is submitted as an Agenda document

for the Commission Meeting of _____

Open Session _____

Closed Session _____

CIRCULATIONS		DISTRIBUTION	
48 Hour Tally Vote	[ ]	Compliance	[X]
Sensitive	[ ]		
Non-Sensitive	[ ]	Audit Matters	[ ]
24 Hour No Objection	[X]	Litigation	[ ]
Sensitive	[X]		
Non-Sensitive	[ ]	Closed MUR Letters	[ ]
Information	[ ]	Status Sheets	[ ]
Sensitive	[ ]		
Non-Sensitive	[ ]	Advisory Opinions	[ ]
Other	[ ]	Other (see distribution below)	[ ]

_____ _____

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8504041635

SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
FEC
SECRETARY

In the Matter of)
)
Mondale for President Committee, et al.) MUR 1641
)

84 DEC 12 A9:04

Comprehensive Investigative Report #2

On March 6, 1984, Ralph Hettinga, Jr., filed a complaint with the Commission alleging that Walter F. Mondale, the Mondale for President Committee, Inc. ("MPC"), and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a) by accepting contributions from labor organizations. The complainant also alleged that the American Federation of Labor and Congress of Industrial Organizations ("AFL-CIO"), the New Hampshire State Labor Council ("New Hampshire AFL-CIO"), the Iowa Federation of Labor ("Iowa AFL-CIO"), the Alabama Labor Council ("Alabama AFL-CIO"), the National Education Association ("NEA"), the National Education Association of New Hampshire ("New Hampshire NEA"), the Iowa State Education Association, and the Alabama Education Association violated 2 U.S.C. § 441(a) by making contributions to MPC.

On April 11, 1984, and April 13, 1984, MPC submitted its response to the complaint. Also on April 11, 1984, this office received a letter constituting the response of the AFL-CIO, the Iowa AFL-CIO, the New Hampshire AFL-CIO, and the Alabama AFL-CIO. On April 13, 1984, a response was filed on behalf of the NEA, the New Hampshire NEA, the Iowa State Education Association, and the Alabama Education Association, which was supplemented by a

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response received on April 18, 1984.

On June 12, 1984, the Commission determined to find reason to believe that Walter F. Mondale, MPC, and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a) by failing to pay a portion of the telephone installation and deposit costs incurred by various labor organizations whose facilities MPC utilized. The Commission also determined to hold in abeyance any action with respect to the eight labor organizations identified in the complaint until answers were received to interrogatories directed at MPC. Notification of the Commission's finding and interrogatories were mailed to counsel for Walter F. Mondale, MPC, and Michael S. Berman on July 3, 1984. On July 9, 1984, counsel for the respondents requested a 30 day extension of time in which to respond to the interrogatories. By letter dated July 11, 1984, counsel for Walter F. Mondale, MPC, and Michael S. Berman was informed that the requested extension had been granted.

On July 31, 1984, counsel for Walter F. Mondale, MPC, and Michael S. Berman submitted a Motion to Reconsider the Commission's Finding of Reason to Believe that a violation of the Act has occurred. The Commission determined on August 15, 1984, to deny this motion. On August 20, 1984, MPC submitted its response to the Commission's finding.

Based in part upon the information supplied by MPC, the Commission determined on September 18, 1984, that there is reason to believe 53 additional unions violated 2 U.S.C. § 441b(a) by

8504163 7

incurring the total installation and deposit costs of telephones utilized by MPC. The Commission also determined that MPC violated 2 U.S.C. § 441b(a) by accepting contributions from the above 53 unions. The Commission further determined to find reason to believe three of the original eight unions named in the complaint (New Hampshire AFL-CIO, New Hampshire NEA, and the Iowa State Education Association) violated 2 U.S.C. § 441b(a), and determined to take no action "at this time" with respect to the remaining five unions named in the complaint (Alabama Education Association, NEA, AFL-CIO, Iowa AFL-CIO, and Alabama AFL-CIO). Notification of the Commission's findings was mailed to the respondents in this matter on September 25 and 26, 1984. With respect to MPC and the union's against whom a reason to believe finding was made, an order to submit written answers was issued.

On October 9, 1984, counsel for MPC was notified that a two week extension had been granted to respond to the Commission's order. Also on October 9, 1984, the responses of the New Hampshire NEA and the Iowa State Education Association were submitted. On October 10, 1984, the New Hampshire AFL-CIO responded to the Commission's finding and order.

On October 17, 1984, the General Counsel's Factual and Legal Analysis, approved by the Commission on October 15, 1984, was mailed to the 53 unions against whom the Commission made a reason to believe determination on September 18, 1984. At this time the respondents were notified of an additional ten days to respond to the Commission's order. MPC submitted its response to the

8504163 8

Commission's order on October 19, 1984. In its response MPC identified 45 additional unions whose telephones it utilized. MPC included in its response the statement of Kenneth Whitaker, Vice-President of Public Interest Communications, Inc., a telemarketing firm, which notes that when billing clients for phoning services, "[w]e do not charge for the installation costs because they are a one time expense and therefore are not considered as a continuing overhead item."

On October 25, 1984, and October 26, 1984, The American Federation of Teachers, Local 2309 of The American Federation of Teachers, and the Massachusetts Federation of Teachers each submitted a "Motion to Reconsider Reason-to-Believe Determination and Quash Order for Written Answers." The Commission determined to deny these motions on November 14, 1984, and counsel was so advised by letter dated November 16, 1984. Counsel was then advised that the respondents' responses to the Commission's orders were to be submitted within ten days.

Responses to the Commission's order from the 53 unions discussed above were submitted beginning on October 10, 1984. In the majority of instances, the initial responses submitted did not provide the information requested; various arguments were put forth concerning the unions' refusals to answer including that the union was not afforded an opportunity to respond to the complaint, and that there is no basis in the Act or regulations for requiring the prorating of telephone installation and deposit costs. Consequently, it was necessary for staff of this office

8504163 9

to contact the counsels for the numerous unions concerning their responses to the Commission's order. Amended responses were subsequently submitted by the unions.

A review of the responses received in this matter indicates several factual scenarios. In at least seven instances, the telephones of the respective unions were never utilized by MPC. In other instances, MPC has been billed for a portion of the installation costs where the phones were installed proximate in time to MPC's use, and in other instances the phones used by MPC were installed as much as 20 years ago. In certain instances, including the latter example, no portion of installation costs have been billed to MPC. Where the phones were pre-existing the unions argue that the installation costs are deminimus because such costs must be prorated on a daily basis since the telephones' installation. With approximately three exceptions no deposits costs were paid by the unions, according to their respective responses.

Based upon the information provided in this matter, this office is in process of preparing a report to the Commission which will summarize the responses received and contain specific recommendations.

8504041640

Charles N. Steele
General Counsel

Dec. 11, 1984
Date

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

RECEIVED AT THE FEC
GCC# 5857
84 DEC 3 P12:19

United Steelworkers of America

AFL-CIO-CLC

ONE EAST WACKER DRIVE
SUITE 1910
CHICAGO, ILLINOIS 60601-1980
(312) 467-1995

84 DEC 4 AM:21

November 30, 1984

Charles N. Steele, General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Maura White

Re: MUR 1641
(Complaint by Ralph Martin (Bud) Hettinga
Against the Mondale for President Committee
and Eight Labor Organizations)

8504164

Dear Mr. Steele:

Please refer to my November 6, 1984 letter to you regarding this matter. It was in response to notification from FEC Chairman Elliot to United Steelworkers of America Local Unions 3539 and 2944 informing each of them that the Federal Election Commission, on September 18, 1984, had found reason to believe that each of those two local unions had violated 2 U.S.C. § 441b by incurring installation and deposit costs of telephones used by the Mondale for President Committee. For the reasons stated in my November 6, 1984 letter, these two Steelworker local unions maintain that the FEC should rescind its reason to believe determinations and that the FEC lacks authority to propound the written interrogatories which accompanied the FEC's September 26, 1984 reason to believe notifications.

In our recent telephone conversation, however, you requested that Steelworkers Local Union 2944, of Claremont, New Hampshire, one of the Steelworker local unions in this matter, provide the FEC with certain information in addition to that which was provided in my November 6, 1984 letter to you.* Without conceding that the

* It is my understanding that no additional information is being requested by the FEC of USWA Local Union 3539 at this time.

PRINTED IN U.S.A.

Charles N. Steele, General Counsel
Federal Election Commission
Attention: Maura White

November 30, 1984

FEC in this matter has authority to propound to these local unions the interrogatories transmitted with the Commission's September 26, 1984 reason to believe finding, Local Union 2944 supplements its previous response as follows:

In November, 1983 Local Union 2944 decided to install ten additional telephones in its Claremont, New Hampshire office for use as part of membership oriented get-out-the-vote efforts of the United Steelworkers of America and of the AFL-CIO in relation to the New Hampshire presidential primary. No deposit was required. The total installation charges for all ten phones was $544.19. Local Union 2944 had no discussions with the Mondale for President Committee or any of its agents prior to Local Union 2944's decision to have the ten additional telephones installed.

As I stated in my November 6, 1984 letter, pursuant to a written labor organization facilities use agreement between Local Union 2944 and Mondale for President Committee, representatives of the Mondale Committee also used the ten additional telephones. The total installation costs of those telephones and the monthly service charges, as well as the long distance charges for calls attributable to the Mondale for President Committee were included in the invoices submitted by Local Union 2944 to the Mondale for President Committee.

The dates of use of Local Union 2944's telephones by the Mondale Committee were virtually every day in January and February, 1984 when such phones were not in use by the Steelworkers or the AFL-CIO. We are in the process of reviewing records in order to respond more precisely to your questions regarding those dates and the total number of hours of use of Local Union 2944's telephones by the Mondale Committee.

For the reasons stated in my November 6, 1984 letter, on behalf of United Steelworkers of America Local Unions 3539 and 2944, I restate my request that the Commission's September 18, 1984 reason to believe determinations with respect to these two local unions be rescinded.

Very truly yours,

William H. Schmelling

William H. Schmelling
Assistant General Counsel

WHS/am

Charles N. Steele, General Counsel
Federal Election Commission
Attention: Maura White

November 30, 1984

cc: Kenneth A. Gross, Associate General Counsel, Federal Election Commission
Alden G. Boardman, President, Local Union 2944, USWA
Richard Hagen, President, Local Union 3539, USWA
William J. Foley, Director, USWA, District 1
Eldon D. Kirsch, Director, USWA, District 33
Bernard Kleiman, General Counsel, USWA

8503041643

d Steelworkers of America
AFL-CIO-CLC
ONE EAST WACKER DRIVE
SUITE 1910
CHICAGO, ILLINOIS 60601
PRINTED IN U.S.A.

850015 6

ntion: Maura White

Charles N. Steele, General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

USA 20c

DEC 3 12:

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 16, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

William C. Oldaker, Esquire
Leslie J. Kerman, Esquire
Epstein, Becker, Borsody and Green
1140 - 19th Street, N.W.
Washington, D.C. 20036

Re: MUR 1641

Dear Mr. Oldaker and Ms. Kerman:

This is to inform you that on November 14, 1984, the Commission determined to deny the Motion to Reconsider Reason to Believe Determination and Quash Order for Written Answers which you filed on behalf of your clients, American Federation of Teachers, Local 2309 of the American Federation of Teachers, and the Massachusetts Federation of Teachers. Accordingly, your clients are to comply with the Commission's Order to Submit Written Answers within ten days of your receipt of this letter.

If you have any questions please contact Maura White at 523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

3504164

RECEIVED AT THE FEC
GCC# 5653
84 NOV 16 A9:20

LAW OFFICES
BLAKE & UHLIG, P.A.
475 NEW BROTHERHOOD BLDG.
EIGHTH AND STATE AVENUE
KANSAS CITY, KANSAS 66101
913/321-8884

JOHN J. BLAKE
RICHARD L. CALCARA
STEVE A. J. BUKATY
JOSEPH W. MORELAND
ROBERT L. DAMERON
THOMAS H. MARSHALL
PATRICK L. DUNN
PATRICK E. WHITE
ELAINE M. EPPRIGHT
MICHAEL T. MANLEY
MICHAEL J. STAPP
WILLIAM S. ROBBINS, JR.

ROBERT L. UHLIG (1920-1981)
RICHARD B. THOMPSON (1952-1984)

84 NOV 16 A10:38
RECEIVED
GENERAL COUNSEL

November 12, 1984

Maura White
Office of the General Counsel
Federal Election Commission
1325 K. Street N.W.
Washington, D.C. 20463

RE: MUR. 1641

Dear Ms. White:

Pursuant to our phone conversation of Wednesday, November 7th, 1984, please accept the following statement in position from my client, the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers. The following statement is submitted in an effort to cooperate with the Federal Election Commission in fulfillment of its congressional mandate, however, we reserve the right to continue to object to your request as set forth in our communication of October 30, 1984.

My client allowed the Mondale for President Committee the use of telephones in two locations pursuant to written lease agreements with the Committee. In particular, between January 30, 1984, and March 31, 1984, the Mondale for President Committee was allowed the use of thirteen telephones for a period of 588.5 phone hours in an effort to contact union members in a get out the vote campaign for the upcoming Kansas Primary Caucuses. The cost of the installation was $818.14 and the deposit was $825.00. The Mondale for President Committee was billed for 43.3% of the installation cost based upon their actual percentage of logged usage of the facility. The deposit was fully refunded to the Boilermakers.

In addition, the Mondale for President Committee used eight telephones for 968 phone hours in Wichita, Kansas from March 1st through April 2, 1984, for the purposes of a get out the vote campaign for the Kansas Primary Caucuses. The installation cost was $191.67 and the deposit was $530.00. Due to the failure of the Local Boilermaker organization in Wichita to provide individuals to carry out the vote solicitation, the Mondale for President Committee

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used the Wichita facility exclusively and was billed for the entire amount of the installation. The deposit on this facility was also fully refunded to the Boilermakers.

Hopefully this information will meet your needs. It is our position that the International Brotherhood has not violated any provisions of Sec. 441b(a) and in fact the manner in which the telephone installation was handled was in strict accordance with the letter and intent of 11 C.F.R. §100.7.

Please advise as to whether or not the Commission desires any further action on behalf of my client.

Very cordially yours,

Patrick E. White

PEW/adt

cc: C.W. Jones

8504054116 47

KE & UHLIG, P.A.
TORNEYS AT LAW
W BROTHERHOOD BLDG
AS CITY KANSAS 66101

cc

31

KANSAS CITY, MO
PM
13 NOV
1984

84 NOV 16 A0:20

Maura White
Office of the General Councel
Federal Election Commission
1325 K Street N.W.
Washington, D. C. 20463

GCC# 5644

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

EXECUTIVE COUNCIL

LANE KIRKLAND PRESIDENT THOMAS R. DONAHUE SECRETARY-TREASURER

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Kenneth T. Blaylock
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Lynn R. Williams

November 15, 1984

Ms. Maura White
Office of the General Counsel
Federal Election Commission
1325 K Street, N. W.
Washington, D.C. 20463

84 NOV 15 P 2:47

Re: FEC Mur 1641
(Muskogee and Vicinity Central
Labor Council, AFL-CIO)

Dear Maura:

The purpose of this letter is to supplement the information provided in the Muskogee and Vicinity Central Labor Council's (hereinafter "respondent") November 1, 1984 letter responding to the Commission's reason to believe determination in the above-referenced matter.

Seven of respondent's eight telephones used by the Mondale For President Committee over the period from December 17, 1983 until March 17, 1984 were installed in December, 1983. The eighth phone used by the Mondale Committee was respondent's business telephone which had been installed more than five years ago. Prior to the installation of the seven phones installed in December 1983, respondent's president, Roy Hawkins, discussed this matter with John Moynihan, the local Mondale For President Committee representative. The substance of that conversation was that respondent intended to install seven phones and that the campaign was interested in leasing those phones when not in use by the Muskogee and Vicinity Central Labor Council. Respondent has billed the Mondale For President Committee $422.11 as its pro-rata share of the installation costs of the seven phones installed in December 1983. Respondent did not bill the Committee for any share of the installation costs of respondent's business telephone since the Committee's share of those costs is clearly de minimis.

Respondent is providing this additional information to the Commission voluntarily. It remains our legal position that the Commission's reason to believe determination in this matter is invalid and that the Commission therefore lacks any authority to propound written interrogatories in this matter. See 11 C.F.R. §111.10.

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for Respondent

8504041649

...rican Federation of Labor and Congress of Industrial Organizations

...teenth Street, N.W.
...gton, D.C. 20006

40541

Ms. Maura White
Office of the General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

GCC#5617

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
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EXECUTIVE COUNCIL

LANE KIRKLAND PRESIDENT THOMAS R. DONAHUE SECRETARY-TREASURER

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November 14, 1984

RECEIVED
FEDERAL ELECTION COMMISSION
GENERAL COUNSEL
'84 NOV 14 A11:00

Ms. Maura White
Office of the General Counsel
Federal Election Commission
1325 K Street, N. W.
Washington, D.C. 20463

Re: FEC Mur 1641
(Washington State Labor Council
AFL-CIO)

3504161

Dear Maura:

The purpose of this letter is to supplement the information provided in the Washington State Labor Council AFL-CIO (hereinafter "respondent") November 1, 1984 letter responding to the Commission's reason to believe determination in the above-referenced matter.

The Washington State Labor Council telephones used by the Mondale For President Committee were installed on or about December 31, 1983. Prior to the installation of the phones, respondent's COPE Coordinator, Ross Rieder, discussed this matter with Steve Duncan, a representative of the Mondale For President Committee. The substance of that conversation was that the Washington State Labor Council intended to install telephones at eight locations in the state and that the Mondale For President Commitee was interested in leasing those telephones when not in use by the Washington State Labor Council. The Washington State Labor Council has billed the Mondale For President Committee $2,167.30 as its pro-rata share of the installation costs of the telephones used by the Committee.

Respondent is providing this additional information to the Commission voluntarily. It remains our legal position that the Commission's reason to believe determination in this matter is invalid and that the Commission therefore lacks any authority to propound written interrogatories in this matter. See 11 C.F.R. §111.10.

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for Respondent

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006

Ms. Maura White
Office of the General Counsel
Federal Election Commission
1325 K St., N.W.
Wash., D.C. 20463

GCC#5615

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
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EXECUTIVE COUNCIL

LANE KIRKLAND PRESIDENT THOMAS R. DONAHUE SECRETARY-TREASURER

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William H. Wynn
Robert F. Goss
Frank Drozak
Richard I. Kilroy
William H. Bywater
Kenneth J. Brown
Lynn R. Williams

November 13, 1984

'84 NOV 14 AM 11:01

GENERAL COUNSEL

Ms. Maura White
Office of the General Counsel
Federal Election Commission
1325 K Street, N. W.
Washington, D.C. 20463

Re: FEC Mur 1641
(Wisconsin State AFL-CIO)

Dear Maura:

The purpose of this letter is to supplement the information provided in the Wisconsin State AFL-CIO's (hereinafter "respondent") October 29, 1984 letter responding to the Commission's reason to believe determination in the above-referenced matter.

The respondent's 20 telephones in Milwaukee, Wisconsin, and 5 telephones in Green Bay, Wisconsin, used by the Mondale For President Committee were installed on March 9, 1984. There were no discussions between any agent of the Mondale For President Committee and any officer or agent of the Wisconsin AFL-CIO about the installation or use of the Wisconsin State AFL-CIO's phones prior to the installation of those phones. The Wisconsin State AFL-CIO has billed the Mondale For President Committee $224.33 as its pro-rata share of the installation costs of the telephones used by the Committee.

Respondent is providing this information to the Commission voluntarily. It remains our legal position that the Commission's reason to believe determination in this matter is invalid and that the Commission therefore lacks any authority to propound written interrogatories in this matter. See 11 C.F.R. §111.10.

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for Respondent

8504053163

merican Federation of Labor and Congress of Industrial Organizations

Sixteenth Street, N.W.
shington, D.C. 20006

Ms. Maura White
Office of the General Counsel
Federal Election Commission
1325 K Street, N. W.
Washington, D. C.20463

0541 6

GCC#5616

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
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EXECUTIVE COUNCIL

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Lynn R. Williams

November 13, 1984

RECEIVED
FEDERAL ELECTION COMMISSION
GENERAL COUNSEL
84 NOV 14 AM 11:01

Ms. Maura White
Office of the General Counsel
Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20463

Re: FEC MUR 1641
Ohio AFL-CIO

Dear Maura:

The purpose of this letter is to supplement the information provided in the Ohio AFL-CIO's (hereinafter "respondent") November 1, 1984 letter responding to the Commission's reason to believe determination in the above-referenced matter.

The respondent's eighteen telephones used by the Mondale For President Committee for a seven-day period (from April 28, 1983 to May 5, 1984) were installed on April 6, 1984. There were no discussions between any agent of the Mondale For President Committee and any officer or agent of the Ohio AFL-CIO about the installation or use of the Ohio AFL-CIO's telephones prior to the installation of those phones. The Ohio AFL-CIO has billed the Mondale For President Committee $422.10 as its pro-rata share of installation costs of the telephones used by the Committee.

Respondent is providing this additional information to the Commission voluntarily. It remains our legal position that the Commission's reason to believe determination in this matter is invalid and that the Commission therefore lacks any authority to propound written interrogatories in this matter. See 11 C.F.R. §111.10.

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for Respondent

8504041655

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006

Ms. Maura White
Office of the General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

GCC#5612

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

EXECUTIVE COUNCIL

LANE KIRKLAND PRESIDENT THOMAS R. DONAHUE SECRETARY-TREASURER

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RECEIVED
FEC MAIL CENTER
84 NOV 14 AM 11:04
GENERAL COUNSEL

November 13, 1984

Ms. Maura White
Office of the General Counsel
Federal Election Commission
1325 K Street, N. W.
Washington, D.C. 20463

Re: FEC Mur 1641
(Quad City Federation of Labor,
AFL-CIO)

8504016057

Dear Maura:

The purpose of this letter is to supplement the information provided in the Quad City Federation of Labor, AFL-CIO's (hereinafter "respondent") November 1, 1984 letter responding to the Commission's reason to believe determination in the above-referenced matter.

Respondent's fifteen telephones that were used intermittently from December 15, 1983 until February 12,1984 by the Mondale For President Committee were installed on December 10, 1983. Prior to the installation of the phones, the then-president of the Quad City Federation of Labor, Leonard Davis, discussed this matter with a representative of the Mondale For President Committee. The substance of that conversation was that respondent intended to install telephones in Davenport, Iowa, and that the campaign was interested in leasing those phones when not in use by the AFL-CIO. The Quad City Federation of Labor has billed the Mondale For President Committee $431.10 as its pro-rata share of the installation costs of the Quad City Federation of Labor phones used by the Committee.

Respondent is providing this information to the Commission voluntarily. It remains our legal position that the Commission's reason to believe determination in this matter is invalid and that the Commission therefore lacks any authority to propound written interrogatories in this matter. See 11 C.F.R. §111.10.

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for Respondent

nerican Federation of Labor and Congress of Industrial Organizations

Sixteenth Street, N.W.
hington, D.C. 20006

Ms. Maura White
Office of the General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

50405

GCG#5613

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

EXECUTIVE COUNCIL

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Kenneth J. Brown
Lynn R. Williams

November 13, 1984

NOV 14 11 : 06

Ms. Maura White
Office of the General Counsel
Federal Election Commission
1325 K Street, N. W.
Washington, D.C. 20463

Re: FEC Mur 1641
(Maine State AFL-CIO)

Dear Maura:

The purpose of this letter is to supplement the information provided in the Maine State AFL-CIO's (hereinafter "respondent") November 1, 1984 letter responding to the Commission's reason to believe determination in the above-referenced matter.

The respondent's four WATs lines used by the Mondale For President Committee were installed on or about January 15, 1984. Prior to the installation of those lines, respondent's COPE director, Ken Morgan, discussed this matter with Mark Smith, a representative of the Mondale For President Committee. The substance of that conversation was that the Maine State AFL-CIO intended to install 4 WATs lines and that the campaign was interested in leasing those lines when they were not in use by the AFL-CIO. The Maine State AFL-CIO has billed the Mondale For President Committee $46.89 as its pro-rata share of the installation costs of the WATs lines used by the Committee.

Respondent is providing this information to the Commission voluntarily. It remains our legal position that the Commission's reason to believe determination in this matter is invalid and that the Commission therefore lacks any authority to propound written interrogatories in this matter. See 11 C.F.R. §111.10.

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for Respondent

8504041652

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006

Ms. Maura White
Office of the General Counsel
Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20463

MUR #1641

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

EXECUTIVE COUNCIL

LANE KIRKLAND PRESIDENT THOMAS R. DONAHUE SECRETARY-TREASURER

John H. Lyons
Murray H. Finley
Sol C. Chaikin
Charles H. Pillard
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November 7, 1984

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF THE GENERAL COUNSEL
84 NOV 14 A11:02

Ms. Maura White
Office of the General Counsel
Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20463

Re: FEC MUR 1641
Hillsborough County Central
Labor Council, AFL-CIO

Dear Maura:

The purpose of this letter is to supplement the information provided in the Hillsborough County Central Labor Council's (hereinafter "respondent") October 30, 1984 letter responding to the Commission's reason to believe determination in the above-referenced matter.

The respondent's six telephones used by the Mondale For President Committee were installed on January 20, 1984. There was no discussion between representatives of the Mondale For President Committee and any officer or agent of the Hillsborough County Central Labor Council prior to the installation of the phones.

Respondent is providing this additional information to the Commission voluntarily. It remains our legal position that the Commission's reason to believe determination in this matter is invalid and that the Commission therefore lacks any authority to propound interrogatories in this matter. See 11 C.F.R. §111.10.

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for Respondent

8504041661

nerican Federation of Labor and Congress of Industrial Organizations

Sixteenth Street, N.W.
hington, D.C. 20006

Ms. Maura White
Office of the General Counsel
Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20463

RECEIVED AT THE FEC
GCC#5618
84 NOV 14 AM : 10

SIGAL AND MILLER
ATTORNEYS AT LAW
1208 PLYMOUTH BUILDING
MINNEAPOLIS, MINNESOTA 55402-1380

SAMUEL I. SIGAL
RICHARD A. MILLER
THOMAS G. HARRIGAN

TELEPHONE
(612) 333-5631

November
Twelfth
1 9 8 4

84 NOV 14 P12:28
RECEIVED
OFFICE OF THE
GENERAL COUNSEL

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

To Whom It May Concern:

Re: MUR 1641

Enclosed herewith are the sworn answers of the Minneapolis Building and Construction Trades Council to the questions previously propounded by the Commission in MUR 1641.

Very truly yours,

SIGAL AND MILLER

By Richard A. Miller

RAM:ao
Enclosure

cc. w/enc. Mr. Donald P. Early

8504054116 63

RESPONSES TO INTERROGATORIES

Comes now the Minneapolis Building and Construction Trades Council, and for its Answers to the Interrogatories propounded by the Federal Election Commission states as follows:

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

ANSWER: Yes.

2. If the answer to question 2 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) The total amount of time the telephones were used by MPC; and
d) the number of telephones used by MPC.

ANSWER: a) 1/4/84, 1/23/84 and 1/25/84
b) 312 Central Avenue, Room 556
Minneapolis, Minnesota 55414
c) 22 hours
d) 6

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,

8504041664

f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

ANSWER: a) Four telephones were installed prior to the time the labor organization took possession of the premises on November 1, 1974; one telephone was installed in December, 1977; one telephone was installed in December, 1978.

b) The labor organization no longer has records relating to the cost of installation.

c) Use by the labor organization.

d) No.

e) Unknown, see answer 3 b) above.

f) None.

MINNEAPOLIS BUILDING AND CONSTRUCTION TRADES COUNCIL

By Donald Early
Donald P. Early, Business Manager

STATE OF MINNESOTA)
: SS.
COUNTY OF HENNEPIN)

DONALD P. EARLY, being first duly sworn on oath deposes and states that he is the Business Representative of the Minneapolis Building and Construction Trades Council. That he has read the foregoing Responses to Interrogatories and knows the contents thereof, and that the same is true except as to those matters therein alleged upon information and belief, and as to such matters he believes the same to be true.

Donald Early

Subscribed and sworn to before me
this 12 day of November, 1984

Richard A. Miller

RICHARD A. MILLER
NOTARY PUBLIC — MINNESOTA
HENNEPIN COUNTY
My Comm. Exp. Oct. 22, 1987

8504116 65

AL AND MILLER
ATTORNEYS AT LAW
PLYMOUTH BUILDING
POLIS, MINNESOTA 55402-1389

MINNEAPOLIS, MN 554
PM
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1984

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

84 NOV 14 AM 11:

04054116665

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 1641
American Federation of Teachers	)	
American Federation of Teachers, Local 2309	)	
Massachusetts Federation of Teachers	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on November 14, 1984, the Commission decided by a vote of 5-0 to take the following actions in MUR 1641:

1. Deny the Motions to Reconsider the Reason to Believe Determination and Quash Order for Written Answers filed on behalf of the American Federation of Teachers, Local 2309 of the American Federation of Teachers, and the Massachusetts Federation of Teachers.

2. Approve the letter attached to the General Counsel's Report signed November 8, 1984.

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

Attest:

11-14-84
Date

Marjorie W. Emmons
Secretary of the Commission

Received in Office of Commission Secretary: 11-8-84, 4:23
Circulated on 48 hour tally basis: 11-9-84, 2:00

8504054167

RECEIVED AT THE FEC
G-CC#5599
84 NOV 13 A 9:31

LAW OFFICES
ADAIR, SCANLON AND McHUGH, P.C.
SUITE 411
1925 K STREET, N.W.
WASHINGTON, D.C. 20006

202/728-2462

Atlanta, Georgia Office:
777 W. PEACHTREE STREET, N.E.
ATLANTA, GEORGIA 30308
404/876-7100
Telecopier 404/874-9139

THOMAS S. ADAIR (D.C. & GA.)
J. LEON ADAIR (D.C. & GA.)
WILLIAM A. McHUGH, JR. (GA.)
PATRICK M. SCANLON (D.C. & GA.)
FREDERICK W. CORY (GA.)
DONALD R. LIVINGSTON (GA.)
J. MICHAEL WALLS (GA.)
JAMES B. COPPESS (D.C. & GA.)
J. PAUL BOUTWELL (D.C.)
MARGARET M. CLARK (D.C.)
DEBORAH GERSHENFELD (D.C.)
MARY KATHRYN LYNCH (GA.)
PATRICIA M. SHEA (D.C.)
MARCIA E. FISHMAN (GA.)

November 9, 1984

84 NOV 13 P1:23
FEDERAL ELECTION COMMISSION
GENERAL COUNSEL

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

Re: MUR 1641

Dear Mr. Steele:

This supplement to the response of Local 1365, Communications Workers of America, filed in the above matter on November 1, 1984, is submitted pursuant to my telephone conversation on November 6, 1984, with Maura White of your office. We are submitting this information because Ms. White indicated that it would make our earlier submission clearer. It remains our position, however, that the information contained in the first submission is sufficient to demonstrate that the Commission erred in its determination that there is reason to believe Local 1365 violated the Act, and that, therefore, the Commission is without authority to proceed with its investigation of Local 1365 in this matter.

The telephones in question were installed in December 1983. MPC was charged $182.75 for installation.

Respectfully submitted,

James B. Coppess

JBC/ver

8504054169

LAW OFFICES
ADAIR, SCANLON AND MCHUGH, P.C.
SUITE 411
1925 K STREET, N.W.
WASHINGTON, D.C. 20006

8305411669

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

84 NOV 13 A9:3

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MUR #5698
84 NOV 13 A8:04

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THOMAS S. ADAIR (D.C. & GA.)
J. LEON ADAIR (D.C. & GA.)
WILLIAM A. McHUGH, JR. (GA.)
PATRICK M. SCANLON (D.C. & GA.)
FREDERICK W. COEY (GA.)
DONALD R. LIVINGSTON (GA.)
J. MICHAEL WALLS (GA.)
JAMES B. COPPESS (D.C. & GA.)
J. PAUL BOUTWELL (D.C.)
MARGARET M. CLARK (D.C.)
DEBORAH GREENFIELD (D.C.)
MARY KATHRYN LYNCH (GA.)
PATRICIA M. SHEA (D.C.)
MARCIA E. FRIEDMAN (GA.)

November 9, 1984

84 NOV 13 P 1:23
RECEIVED
GENERAL COUNSEL

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

Re: MUR 1641

Dear Mr. Steele:

This supplement to the response of Local 4305, Communications Workers of America, filed in the above matter on November 1, 1984, is submitted pursuant to my telephone conversation on November 6, 1984, with Maura White of your office. We are submitting this information because Ms. White indicated that it would make our earlier submission clearer. It remains our position, however, that the information contained in the first submission is sufficient to demonstrate that the Commission erred in its determination that there is reason to believe Local 4305 violated the Act, and that, therefore, the Commission is without authority to proceed with its investigation of Local 4305 in this matter.

The telephones in question were installed in November 1983. MPC was charged $175.65 for installation.

Respectfully submitted,

James B. Coppess

JBC/ver

8504041670

LAW OFFICES
ADAIR, SCANLON AND MCHUGH, P.C.
SUITE 411
1925 K STREET, N.W.
WASHINGTON, D.C. 20006

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WASHINGTON D.C.
84 NOV 13 A9:3
5085226

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

8503041167

GCC#5586
RECEIVED AT THE FEC
84 NOV 13 A9:

United Brotherhood of Carpenters and Joiners of America

WILLIAM A. McGOWAN
GENERAL COUNSEL
ROBERT J. PLEASURE
ASSOCIATE GENERAL COUNSEL
KATHY L. KRIEGER
ASSISTANT GENERAL COUNSEL
EDWARD J. GORMAN, III

101 CONSTITUTION AVE., N. W.
WASHINGTON, D. C. 20001

November 6, 1984

84 NOV 13 P1:5
FEDERAL ELECTION COMMISSION
GENERAL COUNSEL

Maura E. White, Esq.
Federal Election Commission
Washington, D.C. 20463

RE: MUR 1641 (Carpenters Local 678)

Dear Ms. White:

I am writing to supplement my letter of October 29 in the above matter, and in response to your phone call of October 31. As I have explained, we contend that the "reason to believe" finding and interrogatories with respect to Local 678 were improvidently issued, since Local 678 is effectively in the position of an additional respondent brought into a complaint-generated MUR, and the Commission has not followed the preliminary procedures prescribed by the FECA and regulations.

While preserving this legal position, we wish to further clarify the factual assertions in the October 29 letter. First, the installation of additional telephones on Local 678 premises occurred in or about December 1983. A Local 678 business agent recalls that after arrangements had been made with the phone company for installation, but before the phones were put in place, a representative of MFP called him and asked whether Local 678 would object to MFP using phones on the Local's premises at times when they were not being used by union representatives to contact union members. Second, to our knowledge no deposit fees were charged to or incurred by the Union. Third, the telephone charges billed to MFP include $123.63 in installation costs.

Again, we submit that this matter should be dismissed as regards Local 678.

Very truly yours,

Kathy L. Krieger

Kathy L. Krieger
Counsel for Local 678

KLK/mkd

8504041672

THY L. KRIEGER
TANT GENERAL COUNSEL
S. OF C. AND J. OF A.
ONSTITUTION AVE., N. W.
HINGTON, D. C. 20001

8504041167

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1984

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Maura E. White, Esq.
Federal Election Commission
Washington, D.C. 20463

NOV 13

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United Steelworkers of America
AFL-CIO-CLC

ONE EAST WACKER DRIVE
SUITE 1910
CHICAGO, ILLINOIS 60601-1980
(312) 467-1995

November 6, 1984

84 NOV 9 P2:17
GENERAL COUNSEL

Charles N. Steele, General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Maura White

Re: MUR 1641
(Complaint by Ralph Martin (Bud) Hettinga Against the Mondale for President Committee and Eight Labor Organizations)

RESPONSE BY UNITED STEELWORKERS OF AMERICA, LOCAL UNIONS 3539 AND 2944

8504167

Dear Mr. Steele:

By letters dated September 26, 1984, United Steelworkers of America Local Unions 3539 and 2944 were notified by Federal Election Commission Chairman Lee Ann Elliot that on September 18, 1984 the Federal Election Commission had determined that there is reason to believe that each of the two Steelworkers local unions violated 2 U.S.C. § 441b by incurring "the total installation and deposit costs of telephones used by the Mondale for President Committee . . . " in each of the two named labor organization's facilities.

Those two Steelworkers local unions also were notified by FEC Chairman Elliot's September 26, 1984 letter of the opportunity to demonstrate that no action should be taken against either labor organization. In a letter dated October 29, 1984 you granted these two local unions a requested extension of time until November 9, 1984 for submission of factual and legal materials in response to the Commission's reason to believe findings.

This letter constitutes such a response on behalf of each of the two local unions and also is a request on their behalf that the Federal Election Commission, on the recommendation of the General

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Charles N. Steele, General Counsel
Federal Election Commission
Attention: Maura White

November 6, 1984

Counsel, rescind its reason to believe findings with respect to each of the two locals. There are three separate and distinct grounds supporting this request to rescind the Commission's reason to believe findings:

(1) The General Counsel's factual and legal analysis is based on generalized information or insufficiently documented information which does not apply to the actual facts with regard to these two Steelworker local unions;

(2) Neither of these two Steelworker local unions were given an opportunity to respond to the Complaint before the reason to believe recommendations and determinations were made; and,

(3) The Complaint, based solely on newspaper and television news reports, is legally insufficient to justify the initiation by the Commission of an enforcement action.

I will deal with each of these grounds in order.

1. The Erroneous Factual Basis of the FEC General Counsel's Factual and Legal Analysis.

The FEC's reason to believe determination is based on the assumption that Steelworkers Local Unions 3539 and 2944 incurred installation and deposit costs for telephones used by the Mondale for President Committee at the respective offices of each local union. That assumption simply is not fact.

a. Local Union 3539, United Steelworkers of America Albert Lea, Minnesota.

Attached to this response as Appendix A is an Affidavit by Richard Hagen. Mr. Hagen, who has been President of Local Union 3539 for more than thirteen years, states that pursuant to a written agreement between his local union and the Mondale for President Committee, representatives of the Mondale campaign were permitted to use the one telephone which Local Union 3539 then had in its rented office in January, February and early March, 1984.

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Charles N. Steele, General Counsel
Federal Election Commission
Attention: Maura White

November 6, 1984

Local Union 3539 does not maintain any clerical or office personnel. The limited use by the Mondale Committee of Local Union 3539's telephone, consequently, did not interfere with the normal functioning of the office. Local Union 3539 billed the Mondale Committee for the Committee's actual use of the telephone and office space.

There was no deposit or installation expense involved with the Mondale Committee's use of Local Union 3539's telephone because that single telephone in the Local Union 3539 office had been in place since the latter 1950's (Hagen Affidavit, Pars. 3 and 5). Neither the Federal Election Campaign Act itself, the FEC's regulations nor any FEC Advisory Opinion requires that installation costs for a labor organization's telephones be billed to a political committee which may use such a telephone. Any installation costs paid by Local Union 3539 in the 1950's for the installation of its telephone long ago have been amortized by the local union's regular use of that telephone. Since there were no calculable installation or deposit costs for the telephone which Local Union 3539 leased to the Mondale Committee, the Local Union's failure to include the charge for such cost in the amounts which it billed to the Mondale Committee for telephone usage and space rental did not violate 2 U.S.C. § 441b.

b. Local Union 2944, United Steelworkers of America Claremont, New Hampshire.

United Steelworkers of America, Local Union 2944 maintains a small office and meeting facility or conference room in Claremont, New Hampshire.

In December, 1983, Local Union 2944 arranged for the installation of ten additional telephones in its office and conference room. These telephones were to be and were used as part of an AFL-CIO get-out-the-vote effort, in relation to the New Hampshire presidential primary, aimed by the AFL-CIO and the Steelworkers at members of the AFL-CIO and Steelworkers labor organizations and their families.

In December, 1983, Local Union 2944 also entered into an agreement for the use of its union facilities with the Mondale for President Committee. Pursuant to the terms of the standard Mondale Committee labor organization facilities agreement, Local Union 2944 submitted invoices to the Mondale Committee for the Committee's actual

Charles N. Ateele, General Counsel
Federal Election Commission
Attention: Maura White

November 6, 1984

use of the telephones. Included in such invoices was an agreed upon monthly rental amount for office space and pro-rated charge for electricity and other utilities. Local Union 2944 billed the Mondale Committee for the total installation costs of the ten additional telephones. No deposits were required.

Local Union 2944 was not required by the Federal Election Campaign Act or by any FEC Regulation or Advisory Opinion to include any installation charges in its billing to the Mondale campaign. In light of the fact that Local Union 2944, nonetheless, elected to include such installation charges in its billing to the Mondale campaign and in light of the fact that no deposit costs were incurred for the telephones leased to the Mondale Committee there was no 2 U.S.C. § 441b violation by Local Union 2944.

Thus, based on the actual facts, in contrast to the assumptions made as the basis for the Commission's reason to believe findings, the Commission should rescind those reason to believe determinations and take no further action against either Steelworkers Local Union 3539 or Local Union 2944.

2. Failure of the FEC to Comply with the Enforcement Provisions of the FECA and the Commission's Regulations.

As is evidenced by the Commission's October 17, 1984 letter enclosing a copy of the Complaint in this matter, this MUR was generated by that Complaint, not by the FEC itself. FEC Regulation Section 111.6 provides, in part, that with regard to a "complaint generated" compliance matter, the respondent "shall be afforded an opportunity to demonstrate that no action should be taken on the basis of a complaint by submitting . . . a letter or memorandum setting forth reasons why the Commission should take no action." The regulations further provide that the FEC "shall not take any action to make any finding against a respondent other than an action dismissing the complaint unless it has considered such response or unless no response has been served upon the Commission within . . . [a specified time period]", 11 C.F. § 111.6; 2 U.S.C. 431g(a)(1).

FEC Regulation § 111.6 thus embodies some basic principles of fundamental due process. The Commission's failure to apply those

principles and to follow its own regulations and the requirements of 2 U.S.C. § 437g(a)(1), resulted, as is demonstrated above, in the Commission using totally erroneous factual bases for its reason to believe determination against these two Steelworkers local unions. By making that finding against these two Steelworkers local unions without first affording them the opportunity to demonstrate why no such action should be taken, the Commission violated § 437g(a) of the FECA and § 111.6 of its own regulations. The Commission's reason to believe determinations, therefore, are invalid and should be rescinded.

3. The Legal Insufficiency of the Complaint

FEC Regulation § 111.4(d) provides that a complaint filed with the Federal Election Commission should conform to four specified provisions, including the clear identification as a respondent of each person or entity who was alleged to have committed a violation (11 C.F.R. § 111.5(d)(1). Although Walter F. Mondale, the Mondale for President Campaign Committee, the AFL-CIO, the National Education Association and certain state or local councils of the AFL-CIO or units of the NEA are specifically identified on page 2 of the Complaint, it would appear that United Steelworkers of America Local Unions 3539 and 2944 now are respondents simply because of the inclusion by the complainant of "other affiliated and local unions of the AFL-CIO [which the complainant] believes to be involved." (Complt., p.2)

Such failure on the part of the complainant, with respect to these two Steelworker local unions, to comply with a minimum requirement of FEC Regulation § 111.5(d) might explain the Commission's failure to permit these two local unions an opportunity to respond to the allegations of the Complaint before being subjected to reason to believe findings by the Commission. The response required of the FEC's General Counsel by Section 111.5(b), however, with respect to "other affiliated and local unions of the AFL-CIO" was to notify the complainant that no action would be taken on the basis of that complaint with respect to those unidentified entities. (11 C.F.R. § 111.5(b).

The Complaint also is legally insufficient in that it contains no factual allegations based on personal knowledge of the complainant and is not otherwise supported by acceptable evidence. The Complaint is based solely on newspaper and television news reports which themselves are not well documented but consist primarily of second-hand informa-

Charles N. Steele, General Counsel
Federal Election Commission
Attention: Maura White

November 6, 1984

tion summaries. This is contrary to the minimum requirements for complaints under the FEC's policy memorandum, number 663, which was adopted on November 15, 1979. That policy requires that where a complaint is based on a news account, the news account itself should be well documented, substantial and meet all the requirements of a complaint in order to constitute a sufficient basis for an enforcement action.

As is demonstrated above, to the extent that any of the generalizations contained in the news accounts which accompany the Complaint could be considered to be applicable to either of the two Steelworker local union respondents, Local Union 2944 and 3539, it is clear that such news accounts are totally inaccurate and contrary to the facts.

It also is apparent that the Commission's purpose in adopting the policy set forth in Commission Memorandum Number 663 was to justify the rejection of complaints based on undocumented accusations and inaccurate factual assertions. If that policy had been followed initially by the General Counsel the Complaint would have been rejected administratively under FEC Regulation § 111.5(b).

Thus, not only was the Complaint legally insufficient to justify any enforcement action, the Commission improperly made reason to believe determinations against Local Unions 2944 and 3539 without first permitting them to demonstrate why the Complaint should be dismissed. If these two local unions had been given such an opportunity they would have demonstrated that the assumption which the Commission would use as the foundation for its reason to believe findings was contrary to the facts due to the Commission's failure to follow its own procedural safeguards and its reliance on such false assumptions. For the reasons and based on the facts stated above, Local Unions 2944 and 3539 respectfully decline to respond to the written interrogatories which the FEC lacks authority to propound.

The Commission's September 18, 1984 reason to believe findings with respect to these two local unions should be rescinded.

Very truly yours,

William H. Schmelling

William H. Schmelling
Assistant General Counsel

WHS/am
Enclosure

8 5 0 3 1 1 6 7 2

Charles N. Steele, General Counsel
Federal Election Commission
Attention: Maura White

November 6, 1984

cc: Kenneth A. Gross, Associate General Counsel, Federal Election Commission
Alden G. Boardman, President, Local Union 2944, USWA
Richard Hagen, President, Local Union 3539, USWA
William J. Foley, Director, USWA, District 1
Eldon D. Kirsch, Director, USWA, District 33
Bernard Kleiman, General Counsel, USWA

8503411680

STATE OF MINNESOTA)
) SS
COUNTY OF FREEBORN)

AFFIDAVIT OF RICHARD HAGEN

RICHARD HAGEN, being first duly sworn, on oath deposes and says:

1. My name is Richard Hagen. I have personal knowledge of the matters set forth in this affidavit which is being submitted in support of the position of United Steelworkers of America, Local Union 3539 in the Federal Election Commission case identified as MUR 1641.

2. I am the President of United Steelworkers of America, Local Union 3539 and I have held that elected position, through successive elections, since the early 1970's.

3. Local Union 3539 has no clerical employees, but maintains a small business office in space rented at 404 East Main Street in Albert Lea, Minnesota. Local Union 3539 has one telephone in that office and that telephone has been in place since before I became President of the Local Union in or about 1970. I have been informed that that telephone has been in place at our Local Union office since the latter 1950's.

4. At the present time, in relation to the November 6, 1984 general election, Local Union 3539, in a coordinated effort with the AFL-CIO in our area, is conducting a telephone bank from the Local Union 3539 office on East Main Street in Albert Lea.

8504054168 1

In addition to the existing telephone in our office, some telephones only recently have been installed for the purpose of this general election telephone bank.

5. In January, February and early March, 1984, when Local Union 3539 had only the one telephone described in paragraph 3, above, Local Union 3539 and the Mondale for President Committee entered into an agreement for the use of Local Union 3539's office and its one telephone. Such use of our office and telephone by Mondale for President representatives, did not interfere with the normal functioning of Local Union 3539. As provided by that agreement for the use of Local Union 3539's facilities, the Local Union submitted bills or "invoices" to the Mondale for President Committee for the actual cost of telephone calls made by the Mondale for President Committee and also for a normal and usual rental cost of the office and equipment.

Richard Hagen

Richard Hagen

Subscribed and Sworn to
before me this FIRST
day of November,
1984.

Kathy K. Heilman

KATHY K. HEILMAN
NOTARY PUBLIC—MINNESOTA
FREEBORN COUNTY
MY COMM. EXP. SEPT. 1, 1989

8504041682

From

UAW

1757 N Street, N.W. — Washington, D. C. 20036

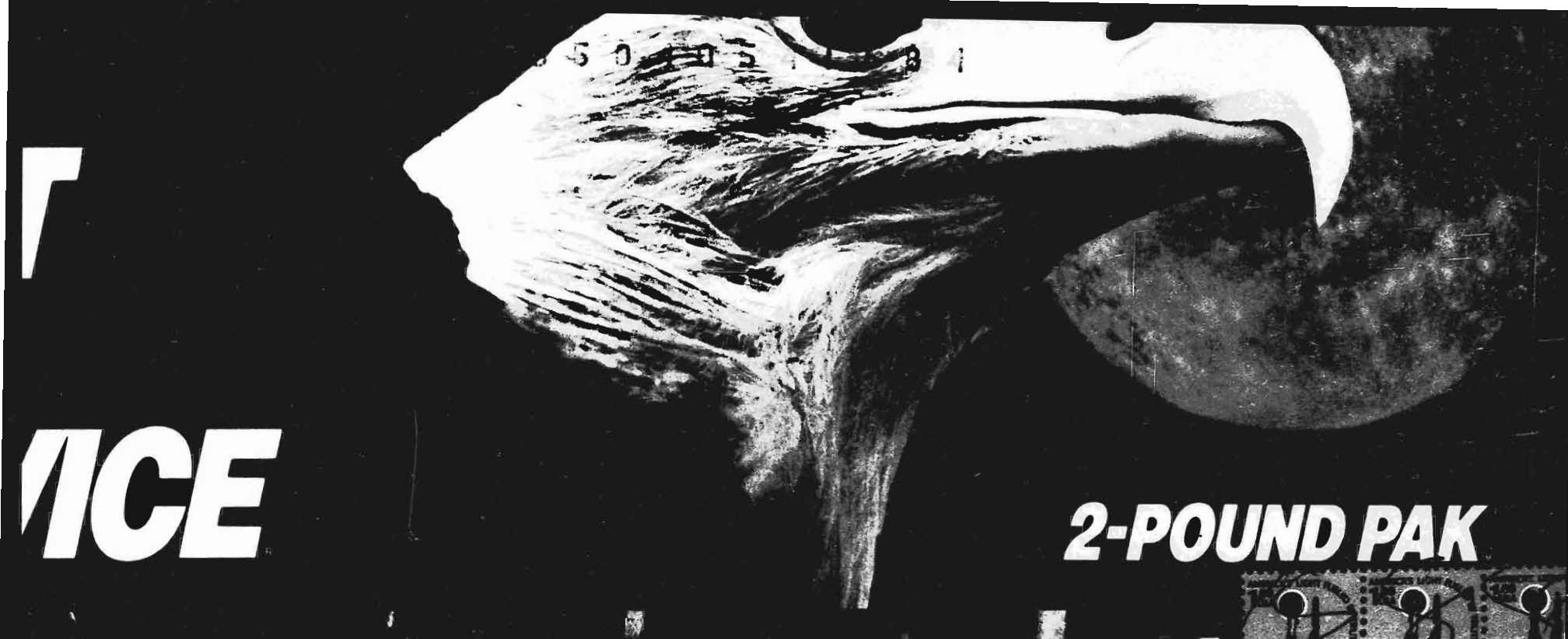
for

Maura White, Esq.
Federal Election Commission
1325 K Street, N. W., ~~5th floor~~
Washington, D. C. 20463

room 700

FIRST CLASS MAIL

85040541683



ICE

2-POUND PAK

FROM:

William H. Schmelling, Esq.
United Steelworkers of America
One East Wacker Drive, Suite 1910
Chicago, Illinois 60601

TO:

Charles N. Steele, General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Maura White

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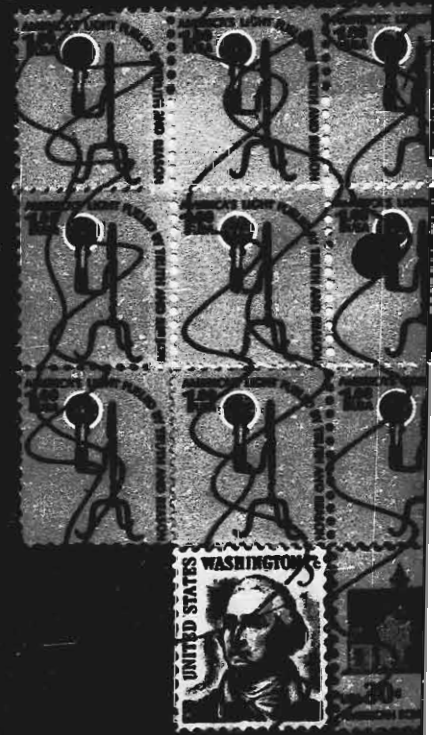

GCC# 5517

UFCW

Legal Department
(202) 466-1520 / 1523

84 NOV 8 P1:52

November 8, 1984

BY HAND

Ms. Maura White
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1641

Dear Ms. White:

In response to the Interrogatories propounded by the Commission, we wish to reiterate the position set forth in our letter of October 29 that these questions were improperly posed both on procedural grounds and because the premise underlying the "reason to believe" finding is incorrect. We are responding at this point, however, in the hope that an understanding of the facts may bring an expeditious resolution to this matter. This response is on behalf of those persons with the United Food and Commercial Workers International Union or local unions of the UFCW who we are aware of having been served with Interrogatories, i.e., Ken Abbas, Berle M. Chaplan, Paul Fortune, Max V. Graham, Sean Harrigan, Marv Hrubes, Richard L. Johnston, Henry Martin, Derby G. Olsen, and Jack Dorman.

In the case of Local 6P, (Albert Lea, Minnesota) the telephones were used from January 18 to February 19, 1984. Two existing telephones which had been installed in 1964 were used. In the case of Local 1161, (Worthington, Minnesota), the telephone was used from February 1 to February 20, 1984. One existing telephone which had been installed in 1966 was used. In the case of Local 1169P (Iowa Falls, Iowa) the telephone was used from January 31 to February 20, 1984. One existing telephone which had been installed in 1977 was used. In the case of Local 1439 (Spokane, Washington), the telephone was used for one week, the exact dates of which we are trying to ascertain. One existing telephone which had been installed in 1980 was used. In all of these cases the telephones had been installed to conduct the regular business affairs of the local union. Since the telephones in all of these cases were existing telephones which had been in place for between 4 years and 20 years there could have been no conversations between the Unions and the Mondale campaign about the use or installation of the telephones prior to

William H. Wynn
International
President

Anthony J. Lutty
International
Secretary-Treasurer

United Food & Commercial Workers
International Union, AFL-CIO & CLC
1775 K Street, N.W.
Washington, D.C. 20006
(202) 223-3111

their installation. In none of these cases was the Mondale campaign billed for part of the cost of installation of these pre-existing phones.

In the case of the three other local unions which received Interrogatories, Locals 31P (Fort Dodge, Iowa), 47P (Omaha, Nebraska) and 71 (Sioux City, Iowa), new telephones were installed for the purposes of communicating with local union members regarding the Union's position on the elections. In addition, the phones were used by the Mondale campaign, which agreed to reimburse the Union for their share of the telephone usage. In Fort Dodge, six phones were installed on January 5 and disconnected on February 20, 1984. A deposit of $1,000 was paid by the Local Union, which has since been returned to the Local Union with a credit of $26.63 for the interest earned on this amount. This is the only instance where a deposit was requested. The Mondale campaign was billed $20.43 for its share of the installation fee of $204.30. In Omaha, Nebraska, ten phones were installed on January 18 and disconnected on February 20, 1984. No deposit was required. The Mondale campaign was billed $23.13 as its portion of the installation costs of $231.30. In Sioux City, Iowa, ten phones were installed on January 8 and disconnected on February 19, 1984. No deposit was required. The Mondale campaign was billed and has paid $59.65 as its share of the installation costs of $596.55.

In addition to the above, five phones were installed in Muscatine, Iowa, on December 21, 1983, and disconnected on March 12, 1984. No deposit was required. The Mondale campaign was billed and has paid $28.05 on its share of the installation fee of $260.37. In Council Bluffs, Iowa, ten phones were installed on January 20 and disconnected on February 26, 1984. No deposit was required. The Mondale campaign was billed and has paid $35.86 of its share of the installation costs of $358.52. In Cherokee, Iowa, three phones were installed on December 13, 1983, and disconnected on February 21, 1984. No deposit was required. The Mondale campaign was billed $15.96 for its portion of the installation charges of $159.54. In Mason City, Iowa, seven phones were installed on January 11 and disconnected on March 12, 1984. No deposit was required. The Mondale campaign was billed $32.21 for its portion of the installation charges of $322.12. In Esterville, Iowa, three telephones were installed on December 15, 1983 and we are trying to determine the disconnect dates on those phones. No deposit was required. The Mondale campaign was billed $17.49 for its portion of the installation charges of $174.94.

The use records for the telephones have been kept by the Mondale campaign. There were no discussions between the Mondale

8504016

campaign and any agent of the labor organization prior to the installation of the new telephones referred to above.

Sincerely,

Edward P. Wendel
Assistant General Counsel

cc: Abbas
Chaplin
Fortune
Graham
Harrigan
Johnston
Martin
Olsen
Dorman
Hrubes

EPW:sgg

8504041687

UFCW

United Food & Commercial Workers
International Union, AFL-CIO & CLC
1775 K Street, N.W.
Washington, D.C. 20006

Ms. Maura White
Federal Election Commission
Washington, D.C. 20463

NOV 8 P1:52

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary

FROM: Office of General Counsel

DATE: November 8, 1984

SUBJECT: MUR 1641 - General Counsel's Report

The attached is submitted as an Agenda document for the Commission Meeting of _____

Open Session _____

Closed Session _____

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Non-Sensitive	[ ]	Closed MUR Letters	[ ]
Information	[ ]	Status Sheets	[ ]
Sensitive	[ ]		
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Other	[ ]	Other (see distribution below)	[ ]

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•SENSITIVE•

BEFORE THE FEDERAL ELECTION COMMISSION

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In the Matter of	)	
	)	84 NOV 8 P4:23
American Federation of Teachers;	)	MUR 1641
American Federation of Teachers, Local 2309;	)	
Massachusetts Federation of Teachers	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On September 18, 1984, the Commission determined that there is reason to believe the American Federation of Teachers, Local 2309 of the American Federation of Teachers, and the Massachusetts Federation of Teachers violated 2 U.S.C. § 441b(a) in connection with their payment of the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organizations' respective facilities. An order to Submit Written Answers was subsequently mailed to each of the respondents.

On October 25, 1984, and October 26, 1984, the American Federation of Teachers, Local 2309 of the American Federation of Teachers, and the Massachusetts Federation of Teachers each submitted a "Motion to Reconsider Reason-to-Believe Determination and Quash Order for Written Answers." (Attachments 1-3.) The motions were submitted subsequent to the respondents' receipt of the General Counsel's Factual and Legal Analysis which was mailed on October 17, 1984.

II. ANALYSIS

With respect to the respondents' respective motions for

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reconsideration of the reason to believe finding in this matter, it is the recommendation of this Office that the Commission deny the respondents' motions and proceed with its investigation of this matter. In sum, it is the position of the respondents that:

> There is absolutely no basis, either in the Federal Election Campaign Act of 1971, as amended, ("the Act") or in the Commission's regulations, advisory opinions or enforcement actions thereunder, for requiring a portion of deposit and installation fees to be included in computing the "usual and normal charge" for the use of telephones owned by a labor organization or corporation. Moreover, neither the General Counsel nor the Commission has offered any support for their contention that labor organizations are required to request reimbursement for a portion of telephone deposit and installation costs. To the contrary, the Commission's advisory opinions and enforcement actions reveal no instance where telephone deposit or installation fees were required to be included in reimbursement under the "usual and normal charge" standard. Further, it is the standard practice of telemarketing firms not to charge their customers any portion of telephone deposit or installation costs.

In the view of this Office the instant Motion to Reconsider reflects the respondents' misunderstanding of the procedural stages of an investigation conducted pursuant to 2 U.S.C. § 437g. There is no provision in the Act for the filing of a motion to reconsider a reason to believe finding by the Commission. The absence of such a provision reflects in part that reason to believe is a preliminary threshold for investigation. Thus, in

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view of the above and the fact that the respondents have been afforded an opportunity to respond to the reason to believe findings prior to a recommendation of whether there is probable cause to believe, there is no reason for the Commission to reconsider its findings.

With respect to the respondents' motions to quash the Commission's Order for Written Answers, it is the recommendation of this Office that these motions also be denied by the Commission. The respondents' present the argument that "[b]ecause telephone deposit and installation fees need not be expressly reimbursed to [the unions], the Commission's request for answers to written interrogatories is unnecessary and should be quashed." The respondents contend that even if they have "not expressly sought and obtained reimbursement for such expenses, it cannot be found to have violated the 'usual and normal charge' standard in the Commission's regulations and therefore the prohibition against union contributions in the Act." In view of the above, it is the position of the respondents that the Commission's requests for information concerning deposit and installation costs are "irrelevant and unnecessary." Moreover, the respondents take the position that "[t]o the extent that the Commission's request for interrogatory answers seeks information unrelated to deposit and installation fees, the Commission's request constitutes a baseless fishing expedition into AFT's internal affairs." The respondents conclude that "[w]ith neither reason-to-believe nor even any allegations of other wrongdoing,

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the Commission may not seek extraneous information that is beyond the scope of its investigation."

The investigation in this matter involves the use of the respondents' telephones by the Mondale for President Committee. The questions which the respondents seek to quash are neither extraneous nor beyond the scope of the Commission's investigation. See United States v. Morton Salt Company, 338 U.S. 632 (1950). The questions relate solely to telephones utilized by the Mondale for President Committee. The questions seek the date and purpose of the installation of such telephones, as well as the amount of the installation and deposit costs involved. As to the respondents contention that the Commission's requests for information are "irrelevant" and "unnecessary" because telephone deposit and installation fees "need not be expressly reimbursed," such represents a legal conclusion contrary to that which formed a basis for the Commission's preliminary finding in this matter. Finally, the respondents insistence that the Commission's request for information is a "baseless fishing expedition" into their internal affairs ignores the fact that the Commission's reason to believe finding was based in part upon the acknowledgement of the Mondale for President Committee that it entered into lease agreements with the respondents for the use of their telephones.

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III. RECOMMENDATIONS

1. Deny the Motions to Reconsider the Reason to Believe Determination and Quash Order for Written Answers filed on behalf of the American Federation of Teachers, Local 2309 of the American Federation of Teachers, and the Massachusetts Federation of Teachers.

2. Approve the attached letter.

Charles N. Steele
General Counsel

Nov. 8, 1984
Date

By: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachments
1 - AFT Motion
2 - Local 2309 Motion
3 - MA Motion
4 - Proposed Letter

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GCC # 3313

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October 25, 1984

Charles N. Steele, Esquire
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1641 - American Federation of Teachers - Motion to Reconsider Reason-to-Believe Determination and Quash Order for Written Answers

Dear Mr. Steele:

This responds to your letter, received by this office on October 18, 1984, wherein we were provided with the General Counsel's factual and legal analysis in the above-entitled matter and directed to answer a series of interrogatories within ten days of receipt of the letter. For the reasons set forth herein, we respectfully urge the Commission to reconsider its reason-to-believe determination and quash its order for written answers. Upon reconsideration, we believe that the Commission will properly determine that the complaint against AFT should be dismissed forthwith.

I. The Commission's Reason-to-Believe Determination Lacks A Legal Basis; Therefore, the Determination Should be Reconsidered and the Complaint Subsequently Dismissed

As set forth in the Commission's initial notification letter of September 25, 1984, the Commission's reason-to-believe determination in this matter is premised solely upon the General Counsel's belief that the American Federation of Teachers ("AFT") incurred the total deposit and installation costs of telephones used by the Mondale for President Committee ("Mondale Committee") at AFT's facilities. Therefore, under the General Counsel's view, AFT has allegedly violated the prohibition against labor organization contributions embodied in 2 U.S.C. § 441b(a) because it has incurred expenses with respect to telephone deposit and installation fees without obtaining reimbursement therefor.

Attachment 1(1)

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The General Counsel apparently believes that the "usual and normal charge" requirement in Section 114.9 of the regulations makes it expressly mandatory for AFT to have requested reimbursement from the Mondale Committee for a portion of the telephone deposit and installation fees. In allegedly not charging the Mondale Committee for deposit and installation fees, the General Counsel contends that AFT's charges to the Mondale Committee were per se less than the required "usual and normal charge."

As we demonstrate herein, the Commission's reason-to-believe determination based therein should, on reconsideration, be rescinded.

There is absolutely no basis, either in the Federal Election Campaign Act of 1971, as amended, ("the Act") or in the Commission's regulations, advisory opinions or enforcement actions thereunder, for requiring a portion of deposit and installation fees to be included in computing the "usual and normal charge" for the use of telephones owned by a labor organization or corporation. Moreover, neither the General Counsel nor the Commission has offered any support for their contention that labor organizations are required to request reimbursement for a portion of telephone deposit and installation costs. To the contrary, the Commission's advisory opinions and enforcement actions reveal no instance where telephone deposit or installation fees were required to be included in reimbursement under the "usual and normal charge" standard. Further, it is the standard practice of telemarketing firms not to charge their customers any portion of telephone deposit or installation costs.1/

In short, even assuming that AFT incurred telephone deposit and installation fees without requiring reimbursement from the Mondale Committee for any portion thereof, there is still no basis in the Act or regulations for the Commission's position that a portion of telephone deposit and installation fees must be included in computing the "usual and normal charge" of telephones used by a campaign. Moreover, by departing without notice or explanation from its longstanding practices and imposing the additional regulatory burdens noted above in a retroactice fashion,2/ the Commission has acted in an arbitrary and capricious manner.

1/ See letter from Kenneth G. Whitaker, Vice President of Public Interest Communications, Inc., a telemarketing firm, attached hereto as Exhibit A.

2/ It is well-established that the Commission cannot depart from its past practices, as it does here, without providing cogent reason for doing so. Columbia Broadcasting Systems, Inc. v. FCC, 454 F.2d 1018, 1026 (D.C. Cir. 1971); accord Greater Boston Television Corp. v. FCC, 444 F.2d 841, 852 (D.C. Cir. 1970), cert denied, 403 U.S. 923 (1971).

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a. The Commission's Regulations Do Not Require Reimbursement For Installation or Deposit Fees.

Section 114.9 of the Commission's regulations provides that:

> Persons . . . who make any use of corporate or labor organization facilities, such as by using telephone or typewriters or borrowing office furniture for activity in connection with a federal election are required to reimburse the corporation or labor organization within a commercially reasonable time, in the amount of the normal and usual rental charge . . . for the use of the facilities.

11 C.F.R. Section 114.9(d)(1982). As defined in Section 100.7 of the regulations, the normal and usual rental charge is "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution."

However, aside from the "market price" definition of "normal and usual charge," the Commission's regulations offer no guidance whatsoever on how to calculate reimbursement. Significantly, the regulations do not, under any possible construction, provide that telephone deposit and installation fees are per se includable in the computation of the "normal and usual charge" for the use of labor organization or corporate telephones. Thus, the Commission's formula for calculating reimbursement must be determined by reference to its advisory opinions and enforcement actions. It is these past Commission practices by which AFT and other unions rely in determining their own reimbursement policies with respect to the use of their telephones by political committees.

b. The Commission's Advisory Opinions Reveal No Instance Where Installation or Deposit or Any Analogous Fees Were Required.

The Commission has issued numerous advisory opinions which clearly establish a methodology for calculating reimbursement for the use of union office facilities and equipment,

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and these opinions do not require the inclusion of telephone deposit and installation fees under the "usual and normal charge" standard.

For example, in Opinion of Counsel 1976-80, the Commission determined that the normal and usual charge for the use of union telephones includes charges for the office space, utilities, and furniture used to conduct the telephoning. The opinion expressly stated that "[a]ny method that would reasonably compute the rental value of these items would be acceptable by the Commission." (Emphasis added). Although the Commission gave detailed requirements for incidental charges such as utilities and furniture, its calculation formula for reimbursement did not require the express inclusion of deposit or installation fees therein. In short, the Commission's opinion established that insofar as a union used a methodology which reasonable computed the overall rental value, it has met its burden under the regulations and need not specify that a political committee pay reimbursement of other expenses not explicitly identified by the Commission.

Similarly, in Advisory Opinion 1978-34, the Commission stated that a congressional campaign could not merely reimburse the corporation for the charge by the telephone company of $.076 per local call but must pay "the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities, and furniture to conduct the phoning." A.O. 1978-34 (July 17, 1978), reprinted in 1 Fed. Elec. Campaign Fin. Guide (CCH) Paragraph 5328, at 10,310 (1980). Again, however, the Commission made no reference to any other specific charges, like deposit or installation fees, for which reimbursement is mandatory.3/

c. The Commission in its Enforcement Actions Has Never Required Deposit or Installation Fees for the Use of Phones.

The Commission's enforcement actions ("MURs") with respect to telephone charges confirm the conclusion that deposit or installation fees need not be reimbursed under the Commission's established methodology for determining "usual and normal" charges.

3/ Note that A.O. 1978-34 has been cited as precedent in several of the MURs discussed herein.

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For example, in MUR 1314 (1980), the Commission found reason to believe that the Carter-Mondale Presidential Committee ("CMPC") accepted corporate in-kind contributions in the form of free use of office space, utilities, telephones and a computer. CMPC argued that the use of the corporate facilities was "occasional, isolated, and incidental" and as such, the corporation should have been only reimbursed to the extent that, as a result of campaign use, it incurred expenses above its operating costs. See Respondent's Brief at 9. The General Counsel rejected this view, citing A.O. 1978-34 for the rule that reimbursement should be for the usual and normal rental charge of the facilities, i.e., the cost of renting comparable facilities in the commercial market rather than the increase in overhead alone. See General Counsel's Brief at 16. A conciliation agreement was entered into whereby CMPC agreed to reimburse the corporation in the amount estimated by the corporation as the usual and normal rental charge. In following the Commission's well established reimbursement formula set forth above, neither the reason-to-believe determination of the Commission nor the calculation agreement entered into by CMPC required reimbursement for any deposit or installation fees. See MUR 1369(81) (rental charges accepted by the Commission did not explicitly include deposit or installation fees); see also MUR 1349 (neither deposit or installation fees mentioned in General Counsel's investigative record).

d. Conclusion

As demonstrated herein, there is absolutely no authority for the proposition that labor organizations are required to include a portion of deposit and installation fees in computing the "usual and normal charge" for the use of telephones by a campaign committee, the sole legal basis for this complaint. Therefore, even assuming that AFT incurred the total costs of deposit and installation fees, as the General Counsel alleges, the Commission has no legal basis for its determination that AFT has violated the Act.[4/]

4/ In addition, note that AFT objects to the fact that it was not allowed to respond to this complaint-generated MUR prior to the Commission's reason-to-believe determination, in violation of Section 111.6 of its regulations.

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II. The Commission's Request For Written Orders Is Unnecessary And Irrelevant, And, Accordingly, Should Be Quashed.

Because telephone deposit and installation fees need not be expressly reimbursed to AFT, the Commission's request for answers to written interrogatories is unnecessary, and should be quashed. Even if AFT has not expressly sought and obtained reimbursement for such expenses, it cannot be found to have violated the "usual and normal charge" standard in the Commission's regulations and therefore the prohibition against union contributions in the Act. Thus, the Commission's request for information concerning the same is irrelevant and unnecessary.

To the extent that the Commission's request for interrogatory answers seeks information unrelated to deposit and installation fees, the Commission's request constitutes a baseless fishing expedition into AFT's internal affairs. With neither reason-to-believe nor even any allegations of other wrongdoing, the Commission may not seek extraneous information that is beyond the scope of its investigation.

Accordingly, we urge the Commission to reconsider and subsequently rescind its reason-to-believe determination in this matter, and additionally quash its order for written answers.

Respectfully submitted,

William C. Oldaker ijk
William C. Oldaker

Leslie J. Kerman
Leslie J. Kerman

Counsel for the American Federation of Teachers

8504057000

EXHIBIT A

PUBLIC INTEREST COMMUNICATIONS, INC.
282 North Washington Street Falls Church, Virginia 22046 703 237-5200

October 19,1984

Carolyn U. Oliphant
Deputy Counsel
Mondale-Ferraro Committee, Inc
2201 Wisconsin Avenue, NW
Washington, D.C. 20007

Dear Ms. Oliphant:

My name is Ken Whitaker and I am Vice-president of Public Interest Communications, a telemarketing firm. We provide phoning services for a variety of clients.

The portion of our charge to customers which covers the use of the telephone lines and equipment is calculated in the following manner. For the costs of the telephones, our clients are normally billed for the percentage of the monthly charges for the lines which are attributable to their use. In addition, they are charged for all actual long distance charges incurred. Our reimbursable overhead charges do not include a component for deposit or installation costs. We do not charge for the installlation costs because they are a one time expense and therefore are not considered as a continuing overhead item.

Our overhead charge includes a percentage of utility costs and rent relating to the length of time our phones are used. The only additional charges are for the personnel which we might provide to supervise and make the phone calls.

Sincerely,

Kenneth G. Whitaker

KGW/jc

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October 25, 1984

Charles N. Steele, Esquire
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

SENSITIVE

Re: MUR 1641 - American Federation of Teachers, Local 2309 - Motion to Reconsider Reason-to-Believe Determination and Quash Order for Written Answers

Dear Mr. Steele:

This responds to your letter, received by this office on October 18, 1984, wherein we were provided with the General Counsel's factual and legal analysis in the above-entitled matter and directed to answer a series of interrogatories within ten days of receipt of the letter. For the reasons set forth herein, we respectfully urge the Commission to reconsider its reason-to-believe determination and quash its order for written answers. Upon reconsideration, we believe that the Commission will properly determine that the complaint against AFT should be dismissed forthwith.

I. The Commission's Reason-to-Believe Determination Lacks A Legal Basis; Therefore, the Determination Should be Reconsidered and the Complaint Subsequently Dismissed

As set forth in the Commission's initial notification letter of September 25, 1984, the Commission's reason-to-believe determination in this matter is premised solely upon the General Counsel's belief that the American Federation of Teachers ("AFT") incurred the total deposit and installation costs of telephones used by the Mondale for President Committee ("Mondale Committee") at AFT's facilities. Therefore, under the General Counsel's view, AFT has allegedly violated the prohibition against labor organization contributions embodied in 2 U.S.C. § 441b(a) because it has incurred expenses with respect to telephone deposit and installation fees without obtaining reimbursement therefor.

Attachment 2(1)

The General Counsel apparently believes that the "usual and normal charge" requirement in Section 114.9 of the regulations makes it expressly mandatory for AFT to have requested reimbursement from the Mondale Committee for a portion of the telephone deposit and installation fees. In allegedly not charging the Mondale Committee for deposit and installation fees, the General Counsel contends that AFT's charges to the Mondale Committee were per se less than the required "usual and normal charge."

As we demonstrate herein, the Commission's reason-to-believe determination based therein should, on reconsideration, be rescinded.

There is absolutely no basis, either in the Federal Election Campaign Act of 1971, as amended, ("the Act") or in the Commission's regulations, advisory opinions or enforcement actions thereunder, for requiring a portion of deposit and installation fees to be included in computing the "usual and normal charge" for the use of telephones owned by a labor organization or corporation. Moreover, neither the General Counsel nor the Commission has offered any support for their contention that labor organizations are required to request reimbursement for a portion of telephone deposit and installation costs. To the contrary, the Commission's advisory opinions and enforcement actions reveal no instance where telephone deposit or installation fees were required to be included in reimbursement under the "usual and normal charge" standard. Further, it is the standard practice of telemarketing firms not to charge their customers any portion of telephone deposit or installation costs.[1]

In short, even assuming that AFT incurred telephone deposit and installation fees without requiring reimbursement from the Mondale Committee for any portion thereof, there is still no basis in the Act or regulations for the Commission's position that a portion of telephone deposit and installation fees must be included in computing the "usual and normal charge" of telephones used by a campaign. Moreover, by departing without notice or explanation from its longstanding practices and imposing the additional regulatory burdens noted above in a retroactice fashion,[2] the Commission has acted in an arbitrary and capricious manner.

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4/ In addition, note that AFT objects to the fact that it was not allowed to respond to this complaint-generated MUR prior to the Commission's reason-to-believe determination, in violation of Section 111.6 of its regulations.

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Accordingly, we urge the Commission to reconsider and subsequently rescind its reason-to-believe determination in this matter, and additionally quash its order for written answers.

Respectfully submitted,

William C Oldaker ljk
William C. Oldaker

Leslie J Kerman
Leslie J. Kerman

Counsel for the American Federation of Teachers, Local 2309

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8504041707

EXHIBIT A

PUBLIC INTEREST COMMUNICATIONS, INC.
282 North Washington Street Falls Church, Virginia 22046 703 237-5200

October 19,1984

Carolyn M. Oliphant
Deputy Counsel
Mondale-Ferraro Committee, Inc
2201 Wisconsin Avenue, NW
Washington, D.C. 20007

Dear Ms. Oliphant:

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Sincerely,

Kenneth G. Whitaker

KGW/jc

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White
C-CC #5317

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RECEIVED
GENERAL COUNSEL
FEDERAL ELECTION COMMISSION
'84 OCT 26 P4:01

October 26, 1984

Charles N. Steele, Esquire
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1641 - Massachusetts Federation of Teachers, American Federation of Teachers - Motion to Reconsider Reason-to-Believe Determination and Quash Order for Written Answers

Dear Mr. Steele:

This responds to your letter, received by this office on October 18, 1984, wherein we were provided with the General Counsel's factual and legal analysis in the above-entitled matter and directed to answer a series of interrogatories within ten days of receipt of the letter. For the reasons set forth herein, we respectfully urge the Commission to reconsider its reason-to-believe determination and quash its order for written answers. Upon reconsideration, we believe that the Commission will properly determine that the complaint against the Massachusetts Federation of Teachers, American Federation of Teachers ("AFT") should be dismissed forthwith.

I. The Commission's Reason-to-Believe Determination Lacks A Legal Basis; Therefore, the Determination Should be Reconsidered and the Complaint Subsequently Dismissed

As set forth in the Commission's initial notification letter of September 25, 1984, the Commission's reason-to-believe determination in this matter is premised solely upon the General Counsel's belief that the American Federation of Teachers ("AFT") incurred the total deposit and installation costs of telephones used by the Mondale for President Committee ("Mondale Committee") at AFT's facilities. Therefore, under the General Counsel's view, AFT has allegedly violated the prohibition against labor organization contributions embodied in 2 U.S.C. § 441b(a) because it has incurred expenses with respect to telephone deposit and installation fees without obtaining reimbursement therefor.

Attachment 3(1)

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The General Counsel apparently believes that the "usual and normal charge" requirement in Section 114.9 of the regulations makes it expressly mandatory for AFT to have requested reimbursement from the Mondale Committee for a portion of the telephone deposit and installation fees. In allegedly not charging the Mondale Committee for deposit and installation fees, the General Counsel contends that AFT's charges to the Mondale Committee were per se less than the required "usual and normal charge."

As we demonstrate herein, the Commission's reason-to-believe determination based therein should, on reconsideration, be rescinded.

There is absolutely no basis, either in the Federal Election Campaign Act of 1971, as amended, ("the Act") or in the Commission's regulations, advisory opinions or enforcement actions thereunder, for requiring a portion of deposit and installation fees to be included in computing the "usual and normal charge" for the use of telephones owned by a labor organization or corporation. Moreover, neither the General Counsel nor the Commission has offered any support for their contention that labor organizations are required to request reimbursement for a portion of telephone deposit and installation costs. To the contrary, the Commission's advisory opinions and enforcement actions reveal no instance where telephone deposit or installation fees were required to be included in reimbursement under the "usual and normal charge" standard. Further, it is the standard practice of telemarketing firms not to charge their customers any portion of telephone deposit or installation costs.[1/]

In short, even assuming that AFT incurred telephone deposit and installation fees without requiring reimbursement from the Mondale Committee for any portion thereof, there is still no basis in the Act or regulations for the Commission's position that a portion of telephone deposit and installation fees must be included in computing the "usual and normal charge" of telephones used by a campaign. Moreover, by departing without notice or explanation from its longstanding practices and imposing the additional regulatory burdens

1/ See letter from Kenneth G. Whitaker, Vice President of Public Interest Communications, Inc., a telemarketing firm, attached hereto as Exhibit A.

3(2)

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noted above in a retroactice fashion,2/ the Commission has acted in an arbitrary and capricious manner.

a. The Commission's Regulations Do Not Require Reimbursement For Installation or Deposit Fees.

Section 114.9 of the Commission's regulations provides that:

> Persons . . . who make any use of corporate or labor organization facilities, such as by using telephone or typewriters or borrowing office furniture for activity in connection with a federal election are required to reimburse the corporation or labor organization within a commercially reasonable time, in the amount of the normal and usual rental charge . . . for the use of the facilities.

11 C.F.R. Section 114.9(d)(1982). As defined in Section 100.7 of the regulations, the normal and usual rental charge is "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution."

However, aside from the "market price" definition of "normal and usual charge," the Commission's regulations offer no guidance whatsoever on how to calculate reimbursement. Significantly, the regulations do not, under any possible construction, provide that telephone deposit and installation fees are per se includable in the computation of the "normal and usual charge" for the use of labor organization or corporate telephones. Thus, the Commission's formula for calculating reimbursement must be determined by reference to its advisory opinions and enforcement actions. It is these past Commission practices by which AFT and other unions rely in determining their own reimbursement policies with respect to the use of their telephones by political committees.

2/ It is well-established that the Commission cannot depart from its past practices, as it does here, without providing cogent reason for doing so. Columbia Broadcasting Systems, Inc. v. FCC, 454 F.2d 1018, 1026 (D.C. Cir. 1971); accord Greater Boston Television Corp. v. FCC, 444 F.2d 841, 852 (D.C. Cir. 1970), cert denied, 403 U.S. 923 (1971).

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b. The Commission's Advisory Opinions Reveal No Instance Where Installation or Deposit or Any Analogous Fees Were Required.

The Commission has issued numerous advisory opinions which clearly establish a methodology for calculating reimbursement for the use of union office facilities and equipment, and these opinions do not require the inclusion of telephone deposit and installation fees under the "usual and normal charge" standard.

For example, in Opinion of Counsel 1976-80, the Commission determined that the normal and usual charge for the use of union telephones includes charges for the office space, utilities, and furniture used to conduct the telephoning. The opinion expressly stated that "[a]ny method that would reasonably compute the rental value of these items would be acceptable by the Commission." (Emphasis added). Although the Commission gave detailed requirements for incidental charges such as utilities and furniture, its calculation formula for reimbursement did not require the express inclusion of deposit or installation fees therein. In short, the Commission's opinion established that insofar as a union used a methodology which reasonable computed the overall rental value, it has met its burden under the regulations and need not specify that a political committee pay reimbursement of other expenses not explicitly identified by the Commission.

Similarly, in Advisory Opinion 1978-34, the Commission stated that a congressional campaign could not merely reimburse the corporation for the charge by the telephone company of $.076 per local call but must pay "the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities, and furniture to conduct the phoning." A.O. 1978-34 (July 17, 1978), reprinted in 1 Fed. Elec. Campaign Fin. Guide (CCH) Paragraph 5328, at 10,310 (1980). Again, however, the Commission made no reference to any other specific charges, like deposit or installation fees, for which reimbursement is mandatory.3/

3/ Note that A.O. 1978-34 has been cited as precedent in several of the MURs discussed herein.

8504071 2

c. The Commission in its Enforcement Actions Has Never Required Deposit or Installation Fees for the Use of Phones.

The Commission's enforcement actions ("MURs") with respect to telephone charges confirm the conclusion that deposit or installation fees need not be reimbursed under the Commission's established methodology for determining "usual and normal" charges.

For example, in MUR 1314 (1980), the Commission found reason to believe that the Carter-Mondale Presidential Committee ("CMPC") accepted corporate in-kind contributions in the form of free use of office space, utilities, telephones and a computer. CMPC argued that the use of the corporate facilities was "occasional, isolated, and incidental" and as such, the corporation should have been only reimbursed to the extent that, as a result of campaign use, it incurred expenses above its operating costs. See Respondent's Brief at 9. The General Counsel rejected this view, citing A.O. 1978-34 for the rule that reimbursement should be for the usual and normal rental charge of the facilities, i.e., the cost of renting comparable facilities in the commercial market rather than the increase in overhead alone. See General Counsel's Brief at 16. A conciliation agreement was entered into whereby CMPC agreed to reimburse the corporation in the amount estimated by the corporation as the usual and normal rental charge. In following the Commission's well established reimbursement formula set forth above, neither the reason-to-believe determination of the Commission nor the calculation agreement entered into by CMPC required reimbursement for any deposit or installation fees. See MUR 1369(81) (rental charges accepted by the Commission did not explicitly include deposit or installation fees); see also MUR 1349 (neither deposit or installation fees mentioned in General Counsel's investigative record).

d. Conclusion

As demonstrated herein, there is absolutely no authority for the proposition that labor organizations are required to include a portion of deposit and installation fees in computing the "usual and normal charge" for the use of telephones by a campaign committee, the sole legal basis for this complaint. Therefore, even assuming that AFT incurred

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the total costs of deposit and installation fees, as the General Counsel alleges, the Commission has no legal basis for its determination that AFT has violated the Act.4/

II. The Commission's Request For Written Orders Is Unnecessary And Irrelevant, And, Accordingly, Should Be Quashed.

Because telephone deposit and installation fees need not be expressly reimbursed to AFT, the Commission's request for answers to written interrogatories is unnecessary, and should be quashed. Even if AFT has not expressly sought and obtained reimbursement for such expenses, it cannot be found to have violated the "usual and normal charge" standard in the Commission's regulations and therefore the prohibition against union contributions in the Act. Thus, the Commission's request for information concerning the same is irrelevant and unnecessary.

To the extent that the Commission's request for interrogatory answers seeks information unrelated to deposit and installation fees, the Commission's request constitutes a baseless fishing expedition into AFT's internal affairs. With neither reason-to-believe nor even any allegations of other wrongdoing, the Commission may not seek extraneous information that is beyond the scope of its investigation.

Accordingly, we urge the Commission to reconsider and subsequently rescind its reason-to-believe determination in this matter, and additionally quash its order for written answers.

Respectfully submitted,

William C Oldaker Lfk
William C. Oldaker

Leslie J Kerman
Leslie J. Kerman

Counsel for the Massachusetts Federation of Teachers, American Federation of Teachers

4/ In addition, note that AFT objects to the fact that it was not allowed to respond to this complaint-generated MUR prior to the Commission's reason-to-believe determination,

3(6)

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EXHIBIT A

PUBLIC INTEREST COMMUNICATIONS, INC.
282 North Washington Street Falls Church, Virginia 22046 703 237-5200

October 19,1984

Carolyn U. Oliphant
Deputy Counsel
Mondale-Ferraro Committee, Inc
2201 Wisconsin Avenue, NW
Washington, D.C. 20007

Dear Ms. Oliphant:

My name is Ken Whitaker and I am Vice-president of Public Interest Communications, a telemarketing firm. We provide phoning services for a variety of clients.

The portion of our charge to customers which covers the use of the telephone lines and equipment is calculated in the following manner. For the costs of the telephones, our clients are normally billed for the percentage of the monthly charges for the lines which are attributable to their use. In addition, they are charged for all actual long distance charges incurred. Our reimbursable overhead charges do not include a component for deposit or installation costs. We do not charge for the installlation costs because they are a one time expense and therefore are not considered as a continuing overhead item.

Our overhead charge includes a percentage of utility costs and rent relating to the length of time our phones are used. The only additional charges are for the personnel which we might provide to supervise and make the phone calls.

Sincerely,
Kenneth G. Whitaker

KGW/jc

3(7)

8504715

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

William C. Oldaker, Esquire
Leslie J. Kerman, Esquire
Epstein, Becker, Borsody and Green
1140 - 19th Street, N.W.
Washington, D.C. 20036

Re: MUR 1641

Dear Mr. Oldaker and Ms. Kerman:

This is to inform you that on November , 1984, the Commission determined to deny the Motion to Reconsider Reason to Believe Determination and Quash Order for Written Answers which you filed on behalf of your clients, American Federation of Teachers, Local 2309 of the American Federation of Teachers, and the Massachusetts Federation of Teachers. Accordingly, your clients are to comply with the Commission's Order to Submit Written Answers within ten days of your receipt of this letter.

If you have any questions please contact Maura White at 523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

8504054171 6

Attachment 4

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

EXECUTIVE COUNCIL

LANE KIRKLAND PRESIDENT THOMAS R. DONAHUE SECRETARY-TREASURER

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Sol C. Chaikin
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Joyce D. Miller
James E. Hatfield
Vincent R. Sombrotto
Marvin J. Boede
Owen Bieber

Thomas W. Gleason
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William H. Bywater
Kenneth J. Brown
Lynn R. Williams

84 NOV 6 P2:55

GCC#5521

November 6, 1984

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

Dear Mr. Steele:

This letter constitutes the response of the Clinton Labor Congress, AFL-CIO (hereinafter "respondent") to the Commission's letter dated September 26, 1984 stating that the Commission has determined that there is reason to believe that respondent violated 2 U.S.C. §441b(a) by "incur[ring] the total installation and deposit costs of telephones used by the Mondale For President Committee at the labor organization's facilities".

For the reasons set forth below, the Commission should rescind its reason to believe finding in this matter and should take no further action against respondent:

1. The instant matter was generated by a complaint, as the Commission has acknowledged in its October 17, 1984 letter to respondent enclosing a copy of that complaint. The Commission's regulations provide with regard to "complaint generated" compliance matters that respondents "shall be afforded an opportunity to demonstrate that no action should be taken on the basis of a complaint by submitting ... a letter or memorandum setting forth reasons why the Commission should take no action." 11 CFR 111.6. The regulations further provide that the Commission "shall not take any action or make any finding against a respondent other than an action dismissing the complaint unless it has considered such response or unless no such response has been served upon the Commission within the [specified time period.]" Id.

By finding reason to believe against respondent without first affording respondent an opportunity to demonstrate why no such action should be taken, the Commission has violated §437g(a) of the Act and §111.6 of its regulations and its reason to believe determination is therefore invalid and must be rescinded.

2. The Commission's reason to believe determination is based upon the General Counsel's statement that: "... evidence in hand indicates that the instant labor organization permitted its telephones to be utilitized by [the Mondale For President Committee] and that the Mondale For President Committee failed to pay the labor organization for any portion of the telephone's deposit and installation costs." FEC General Counsel's Factual and Legal Analysis MUR 1641.

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That statement is totally incorrect. The President of the Clinton Labor Congress, Charles Smith, did sign a use agreement with the Mondale For President Committee.1/ However, the Mondale For President Committee did not use telephones or any other facilities belonging to the Clinton Labor Congress.

In light of the fact that the Mondale For President Committee did not use any telephone(s) belonging to the Clinton Labor Congress the Commission should rescind its reason to believe determination in this matter and should take no further action against respondent.2/

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for Respondent

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1/ The Commission's September 26, 1984 letter was addressed to an individual named Steve Schwartz. As noted above, the use agreement which was executed by the Clinton Labor Congress was signed by its President, Charles Smith. Respondent has no knowledge of anyone named Steve Schwartz.

2/ Respondent's showing above that there is no reason to believe that respondent has violated the Act demonstrates also that the Commission is without authority to propound written interrogatories in this matter. See 11 C.F.R. §111.10.

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Margaret E. McCormick

ADDRESS: AFL-CIO Legal Department, Room 804
815 16th Street, N.W.
Washington D.C. 20006

TELEPHONE: (202) 637-5397

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

10-31-84
Date

Charles Smith
Signature

RESPONDENT'S NAME: Charles Smith -Clinton Labor Congress, AFL-CIO

ADDRESS: 308-21st Place
Clinton Iowa
52732

HOME PHONE: 1-319-243-3031

BUSINESS PHONE: 1-319-652-5197

8504041719

erican Federation of Labor and Congress of Industrial Organizations

xteenth Street, N.W.
ngton, D.C. 20006

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

4 NOV 6 P3:56

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GCC #5191
84 NOV 5 A9:18

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WASHINGTON, D.C. 20036

(202) 775-8900

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LARRY P. WEINBERG
JOHN C. DEMPSEY†
JONATHAN WALTERS
DEBORAH R. WILLIG

ALAINE S. WILLIAMS*
MARILYN S. MAY*
ROBERT T. FENDT*
ROBERT TIM BROWN*
BARBARA KRAFT
MARTHA WALFOORT
LEE W. JACKSON
STUART W. DAVIDSON*
CRAIG BECKER

†ALSO ADMITTED IN VIRGINIA
*NOT ADMITTED IN DISTRICT OF COLUMBIA

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PHILADELPHIA, PA. 19102
(215) 568-8900

HARRISBURG OFFICE
CITY TOWERS BUILDING
HARRISBURG, PA. 17101
(717) 233-8618

VIRGINIA OFFICE
10311 COMMONWEALTH BLVD.
FAIRFAX, VA. 22032

November 1, 1984

84 NOV 5 A11:05
RECEIVED
GENERAL COUNSEL

Maura White, Esq.
Office of the General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

RE: MUR 1641

Dear Ms. White:

Enclosed per our telephone conversation earlier today are the responses of AFSCME Local 372 to the Commission's interrogatories in the above-captioned matter. These were inadvertently omitted from our letter of October 26, 1984.

Sincerely,

Larry P. Weinberg

LPW:dmr
Enclosure

8504172

BEFORE THE FEDERAL ELECTION COMMISSION

IN THE MATTER OF: MUR 1641

RESPONSE OF AFSCME LOCAL 372 TO ORDER TO SUBMIT WRITTEN ANSWERS

In response to the interrogatories submitted to AFSCME Local 372 by the Federal Election Commission, Charles Hughes, President of AFSCME Local 372, being duly sworn, hereby states as follows:

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

Local 372 permitted the Mondale for President Committee, Inc. (hereinafter "MPC") to use certain of its telephones pursuant to a lease agreement.

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC:

Certain of the telephones of Local 372 were used by MPC for some portion of the day on May 30 and 31, and June 2, 4 and 5, 1984.

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b) the location of the telephones used:

The telephones were then and are now located in the office of Local 372 at 28 Cadman Plaza West, Brooklyn, New York 11201

c) the total amount of time the telephones were used by MPC:

The telephones were used by MPC from approximately 6:00 p.m. until approximately 9:00 p.m. on each day of use indicated in the answer to interrogatory 2(a), above.

d) the number of telephones used by MPC:

Of the fifty telephones maintained by Local 372, the number of telephones used by MPC varied from day to day. The number used by MPC on each of the dates referred to above was as follows: May 30 - seven telephones; May 31 - fourteen telephones; June 2 - six telephones; June 4 - eighteen telephones; and June 5 - eighteen telephones.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed:

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The telephones belonging to Local 372 which were used by MPC were installed on or about March 15, 1983.

b) the cost of the installations:

Local 372 has been unable to determine the exact cost of installing its fifty telephones and has no way of determining the cost of installing the telephones used by MPC.

c) the purpose of the installation:

The telephones were installed for the purposes of Local 372, including primarily, but not limited to the following: contacting members in order to encourage their attendance at rallies related to collective bargaining and other union issues; contacting members and others with regard to city council, state assembly, state senate, gubernatorial, and, most important, New York City Board of Education elections; and for conducting general communications with members of Local 372.

d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance

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of each such conversation:

No.

e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC:

Local 372 has been unable to determine with certainty whether deposits were paid on the telephones of Local 372 or the amount of such deposits, but it does not appear that any deposits were paid. However, even if deposits were paid on the telephones of Local 372, Local 372 would have no way of determining the deposits paid on the telephones utilized by MPC.

f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs:

Local 372 did not bill MPC for any portion of the installation or deposit costs, if any, related to the telephones used by MPC as set forth above in response to interrogatories 1 and 2.

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The foregoing answers are true and correct to the best of my knowledge, information and belief.

Charles Hughes

Subscribed and Sworn to
before me this 23 day of
October, 1984.

Notary Public

CATHERINE SCANNAPIECO
Notary Public, State of New York
No. 43-4707751
Qualified in Richmond County
Commission Expires March 30 85

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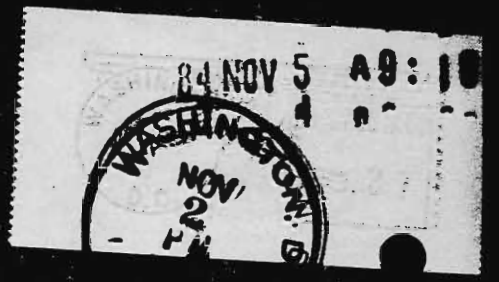
KIRSCHNER, WEINBERG, DEMPSEY,
WALTERS & WILLIG
1100 17TH STREET, N.W.
SUITE 800
WASHINGTON, D.C. 20036



Maura White, Esq.
Office of the General Counsel
Federal Elections Commission
1325 K Street, N.W.
Washington, D.C. 20463

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RICHARD L. CALCARA
STEVE A. J. BUKATY
JOSEPH W. MORELAND
ROBERT L. DAMERON
THOMAS H. MARSHALL
PATRICK L. DUNN
PATRICK E. WHITE
ELAINE M. EPPRIGHT
MICHAEL T. MANLEY
MICHAEL J. STAPP
WILLIAM S. ROBBINS, JR.

ROBERT L. UHLIG (1923-1984)
RICHARD B. THOMPSON (1952-1981)

October 30, 1984

Mr. Charles N. Steele
General Counsel
Federal Election Commission
Washington, D.C. 20463

84 NOV 5 A11:
RECEIVED
GENERAL

Re: MUR 1641

Dear Mr. Steel:

Please find enclosed Statement of Designation of Counsel which is submitted on behalf of the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, whom we represent in the above matter.

On September 26, 1984, the Commission notified International President Jones that a determination was made that reason to believe existed that probable violations of 2 U.S.C. § 441b(a) had occurred. At that time, an Order to Submit Written Answers along with written interrogatories were propounded to our client. Subsequently, on or about October 17, 1984, we were provided with a belated copy of the General Counsel's Factual and Legal Analysis relating to this matter. For reasons outlined in the following, we must respectfully decline to respond to your written questions at this time.

A review of the Complaint and the General Counsel's analysis reveals that this matter apparently is an internally generated matter governed by 11 C.F.R. 111.3, 111.8, 111.2, 111.9 through 111.23. A review of the documents served at this point in time fails to disclose a copy of the Commission's finding that it has reason to believe that our client has violated 2 U.S.C. § 441b(a) and further, the General Counsel's Factual and Legal Analysis is inadequate as it does not so much as mention our client by name. With all due respect, we feel that the provisions of 11 C.F.R. Part 111 have not been complied with and, consequently, no answers are properly required of our client at this time.

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We would be happy to further discuss our position with you at your convenience.

Very cordially yours,

Patrick E. White

PEW/rtd

cc: C.W. Jones, IP

8504054117 29

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: John J. Blake & Patrick E. White

ADDRESS: 475 New Brotherhood Building
Kansas City, Kansas 66101

TELEPHONE: (913) 321-8884

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

30 October 1984
Date

Signature

RESPONDENT'S NAME: International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forger & Helpers, AFL-CIO

ADDRESS: 5th Floor, New Brotherhood Building
Kansas City, Kansas 66101

HOME PHONE: 371-2640

BUSINESS PHONE: same

8504054173O

AKE & UHLIG, P.A.
TTORNEYS AT LAW
NEW BROTHERHOOD BLDG.
SAS CITY, KANSAS 66101

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KANSAS CITY, MO
PM
31 OCT
1984

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Mr. Charles N. Steele
General Counsel
Federal Election Commission
Washington, D.C. 20463

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American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

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Lynn R. Williams

November 2, 1984

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

Re: FEC MUR 1641

Dear Mr. Steele:

This letter constitutes the response of the Greater Flint AFL-CIO Council (hereinafter "respondent") to the Federal Election Commission's letter dated September 26, 1984 stating that the Commission has determined that there is reason to believe that respondent violated §441b(a) of the Federal Election Campaign Act of 1971, as amended ("the Act") by "incur[ring] the total installation and deposit costs of telephones used by the Mondale For President Committee at the labor organization's facilities."

For the reasons set forth below, the Commission should rescind its reason to believe determination in the above-referenced matter and should take no further action against respondent:

1. The instant matter was generated by a complaint as the Commissio has acknowledged in its October 17, 1984 letter to respondent enclosing a copy of that complaint. The Commission's regulations provide with regard to "complaint generated" compliance matters that respondents "shall be afforded an opportunity to demonstrate that no action should be taken on the basis of a complaint by submitting ... a letter or memorandum setting forth reasons why the Commission should take no action." 11 C.F.R. §111.6. The regulations further provide that the Commission "shall not take any action or make any finding against a respondent other than an action dismissing the complaint unless it has considered such response or unless no such response has been served upon the Commission within the [specified time period]." Id.

By finding reason to believe against respondent without first affording respondent an opportunity to demonstrate why no such action should be taken, the Commission has violated §437g(a) of the Act and §111.6 of its regulations and its reason to believe determination is therefore invalid and must be rescinded.

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2. The Commission's September 26, 1984 letter states that the Commission's reason to believe determination "was based upon the General Counsel's analysis that the [Greater Flint AFL-CIO Council] incurred the total installation and deposit costs of telephones used by the Mondale For President Committee at the labor organization's facilities." That statement is wrong for the following reason: of the 12 telephones which respondent leased to the Mondale For President Committee over the period from March 13, 1984 through May 12, 1984, 10 phones were installed in 1980 and 2 sometime prior to 1980. All of the phones have been in service continuously since the time of installation up to and including the date of this response.

Even if the Act or the Commission's regulations required that a pro-rata share of telephone deposit and installation costs be billed to a political committee using a labor organization's telephones, and neither the Act nor the regulations so require, any installation and deposit costs for the phones used by the Mondale For President Committee have long since been amortized by respondent's use of those phones. Since there are no calculable installation or deposit costs for the telephones which respondent leased to the Mondale For President Committee, respondent's failure to include those costs in the amount which respondent billed to the Mondale For President Committee for phone usage and space did not violate 2 U.S.C. §441b(a).*/

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for respondent

8504051733

---

*/ Respondent's showing above that there is no reason to believe that respondent has violated 2 U.S.C. §441b(a) demonstrates also that the Commission is without authority to propound written interrogatories in this matter. See 11 C.F.R. §111.10.

Greater Flint AFL-CIO Council

601 E. Hobson Ave. - Flint, Michigan 48505

SERVING GENESEE, LAPEER, AND SHIAWASSEE COUNTIES

JOE L. ABRAHAM
President

To whom it may concern:

I Joe Abraham, President of the Greater Flint A.F.L.C.I.O council give Margaret McCormick full authorization to represent me and our council before the election commission.

Joe Abraham, President
Greater Flint A.F.L.C.I.O Council

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nerican Federation of Labor and Congress of Industrial Organizations

Sixteenth Street, N.W.
hington, D.C. 20006

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

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LAW OFFICES
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SUITE 411
1925 K STREET, N.W.
WASHINGTON, D.C. 20006

202/728-2462

THOMAS S. ADAIR (D.C. & GA.)
J. LEON ADAIR (D.C. & GA.)
WILLIAM A. McHUGH, JR. (GA.)
PATRICK M. SCANLON (D.C. & GA.)
FREDERICK W. COBY (GA.)
DONALD R. LIVINGSTON (GA.)
J. MICHAEL WALLS (GA.)
JAMES B. COPPESS (D.C. & GA.)
J. PAUL BOUTWELL (D.C.)
MARGARET M. CLARK (D.C.)
DEBORAH GREENFIELD (D.C.)
MARY KATHRYN LYNCH (GA.)
PATRICIA M. SHEA (D.C.)
MARCIA E. FISHMAN (GA.)

Atlanta, Georgia Office:
777 W. PEACHTREE STREET, N.E.
ATLANTA, GEORGIA 30308
404/876-7100
Telecopier 404/874-9139

November 1, 1984

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

84 NOV 1 P4:32
RECEIVED
FEDERAL ELECTION COMMISSION
GENERAL COUNSEL

Re: MUR 1641

Dear Mr. Steele:

This is the response on behalf of Local 6010, Communications Workers of America, to the Commission's determination that there is reason to believe Local 6010 violated 2 U.S.C. §441b(a). Your letter of October 17, 1984 describes this as a complaint generated matter, and the Commission's regulations, 11 C.F.R. §111.6, give respondents the right to demonstrate that no action should be take by the Commission in such matters prior to the Commission's determination of whether there is reason to believe a violation has occurred. Thus, Local 6010 takes this opportunity to demonstrate that the Commission erred in determining that there is reason to believe that Local 6010 violated the Act.

The basis for the Commission's determination that there is reason to believe a violation has occurred is stated as follows in the General Counsel's Factual and Legal Analysis:

> The evidence in hand indicates that the instant labor organization permitted its telephones to be utilized by MPC, and that MPC failed to pay the labor organization for any portion of the telephones' deposit and installation costs. By incurring the total amount of the telephones' deposit and installation costs the instant labor organization has made a contribution to MPC,...

The factual premise for this determination is incorrect.

8504017336

Local 6010 allowed MPC to use the Local's single office telephone as part of an office leasing arrangement. Local 6010 had this telephone installed for its own normal business use in July 1982. It paid no deposit for the telephone and paid an installation charge in 1982 of $62.76. MPC was allowed to use the telephone while it leased office space from Local 6010 for less than two months during January to March 1984, and it was charged for this telephone use as well as for the office space. During this time, the office telephone was available for Local 6010's use and the Local continued to use the telephone as it normally had done. Since the telephone was installed for the Local's normal business use more than two years ago and has continued to be used for that purpose, even during the short time it was available to MPC, there was no basis for Local 6010 to charge MPC for this installation cost.

This showing demonstrates that the Commission's determination of reason to believe a violation has occurred was based on a misunderstanding of the facts. Therefore, the determination of reason to believe should be withdrawn.*

Respectfully submitted,

James B. Coppess

JBC/ver

8504054117737

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*Since the interrogatories propounded by the Commission were based on its erroneous determination, 11 C.F.R. §111.10, the showing in this letter that there is no reason to believe a violation occurred removes the basis for any investigation of Local 4305. Federal Election Commission v. Machinists, 655 F.2d 380, 388 (D.C. Cir.), cert. denied, 454 U.S. 897 (1981) ("mere 'official curiosity' will not suffice as the basis for FEC investigations").

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: James Coppess

P **ADDRESS:** 1925 K St NW, Suite 411

Washington, D. C. 20006

TELEPHONE: 202 728 2455

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

10/2/84
Date

Randy L Sanders
Signature

RESPONDENT'S NAME: Communications Workers of America, Local 6010

ADDRESS: Randy L. Sanders, President

P. O. Box 247

Tishomingo, OK 73460

HOME PHONE: 405 332 4184

BUSINESS PHONE: 405 223 3418

8504054173 8

LAW OFFICES
R, SCANLON AND MCHUGH, P.C.
SUITE 411
1925 K STREET, N.W.
WASHINGTON, D.C. 20006

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

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WASHINGTON, D.C. 20006

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J. LEON ADAIR (D.C. & GA.)
WILLIAM A. MCHUGH, JR. (GA.)
PATRICK M. SCANLON (D.C. & GA.)
FREDERICK W. CORY (GA.)
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J. MICHAEL WALLS (GA.)
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November 1, 1984

84 NOV 1 P4:27
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FEDERAL ELECTION COMMISSION
GENERAL COUNSEL

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

Re: MUR 1641

Dear Mr. Steele:

This is the response on behalf of Local 4305, Communications Workers of America, to the Commission's determination that there is reason to believe Local 4305 violated 2 U.S.C. §441b(a). Your letter of October 17, 1984 describes this as a complaint generated matter, and the Commission's regulations, 11 C.F.R. §111.6, give respondents the right to demonstrate that no action should be take by the Commission in such matters prior to the Commission's determination of whether there is reason to believe a violation has occurred. Thus, Local 4305 takes this opportunity to demonstrate that the Commission erred in determining that there is reason to believe that Local 4305 violated the Act.

The basis for the Commission's determination that there is reason to believe a violation has occurred is stated as follows in the General Counsel's Factual and Legal Analysis:

> The evidence in hand indicates that the instant labor organization permitted its telephones to be utilized by MPC, and that MPC failed to pay the labor organization for any portion of the telephones' deposit and installation costs. By incurring the total amount of the telephones' deposit and installation costs the instant labor organization has made a contribution to MPC,...

The factual premise for this determination is incorrect.

3504054174 0

Local 4305 did not incur the total amount of deposit and installation cost for the telephones it leased to MPC. First, there were no deposit charges with respect to these telephones. And, second, MPC was charged its pro rata share of the cost of installation for these telephones based on use.

This showing demonstrates that the Commission's determination of reason to believe a violation has occurred was based on a misunderstanding of the facts. Therefore, the determination of reason to believe should be withdrawn.*

Respectfully submitted,

James B. Coppess

JBC/ver

8504054117 41

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*Since the interrogatories propounded by the Commission were based on its erroneous determination, 11 C.F.R. §111.10, the showing in this letter that there is no reason to believe a violation occurred removes the basis for any investigation of Local 4305. Federal Election Commission v. Machinists, 655 F.2d 380, 388 (D.C. Cir.), cert. denied, 454 U.S. 897 (1981) ("mere 'official curiosity' will not suffice as the basis for FEC investigations").

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: James Coppess

ADDRESS: Suite 411
1925 K Street, N.W.
Washington, D.C. 20006

TELEPHONE: (202)728-2462

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

10/3/84
Date

J. Keith Estes
Signature

RESPONDENT'S NAME: J. KEITH ESTES (CWA Local 4305)

ADDRESS: 20525 CENTER RIDGE RD.
ROCKY RIVER, OHIO
44116

HOME PHONE:

BUSINESS PHONE: 216-333-6363

8504054174 2

GCC #5143
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MARY KATHRYN LYNCH (GA.)
PATRICIA M. SHEA (D.C.)
MARCIA E. FISHMAN (GA.)

November 1, 1984

84 NOV 1 P4:32
GENERAL COUNSEL

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

Re: MUR 1641

Dear Mr. Steele:

This is the response on behalf of Local 1365, Communications Workers of America, to the Commission's determination that there is reason to believe Local 1365 violated 2 U.S.C. §441b(a). Your letter of October 17, 1984 describes this as a complaint generated matter, and the Commission's regulations, 11 C.F.R. §111.6, give respondents the right to demonstrate that no action should be take by the Commission in such matters prior to the Commission's determination of whether there is reason to believe a violation has occurred. Thus, Local 1365 takes this opportunity to demonstrate that the Commission erred in determining that there is reason to believe that Local 1365 violated the Act.

The basis for the Commission's determination that there is reason to believe a violation has occurred is stated as follows in the General Counsel's Factual and Legal Analysis:

> The evidence in hand indicates that the instant labor organization permitted its telephones to be utilized by MPC, and that MPC failed to pay the labor organization for any portion of the telephones' deposit and installation costs. By incurring the total amount of the telephones' deposit and installation costs the instant labor organization has made a contribution to MPC,...

The factual premise for this determination is incorrect.

8504017443

Local 1365 did not incur the total amount of deposit and installation cost for the telephones it leased to MPC. First, there were no deposit charges with respect to these telephones. And, second, MPC was charged its pro rata share of the cost of installation for these telephones based on use.

This showing demonstrates that the Commission's determination of reason to believe a violation has occurred was based on a misunderstanding of the facts. Therefore, the determination of reason to believe should be withdrawn.*

Respectfully submitted,

James B. Coppess

JBC/ver

---

*Since the interrogatories propounded by the Commission were based on its erroneous determination, 11 C.F.R. §111.10, the showing in this letter that there is no reason to believe a violation occurred removes the basis for any investigation of Local 1365. Federal Election Commission v. Machinists, 655 F.2d 380, 388 (D.C. Cir.), cert. denied, 454 U.S. 897 (1981) ("mere 'official curiosity' will not suffice as the basis for FEC investigations").

8504054174

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: James Coppess

ADDRESS: Suite 411
1925 K Street, N.W.
Washington, D.C. 20006

TELEPHONE: (202)728-2462

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

October 4, 1984
Date

Daniel A Beauregard
Signature

RESPONDENT'S NAME: DANIEL A. BEAUREGARD, PRESIDENT

ADDRESS: LOCAL 1365 C.W.A.
P.O. BOX 68, 1627 OSGOOD STREET
NORTH ANDOVER, MASS. 01845

HOME PHONE: (617) 374-4248

BUSINESS PHONE: (617) 688-6038

8504017445

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WASHINGTON, D.C. 20006

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

50401817946

GCC # 5438

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

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November 1, 1984

'84 NOV 1 P3:51

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

Re: FEC MUR 1641

Dear Mr. Steele:

This letter constitutes the response of the Quad City Federation of Labor, AFL-CIO (hereinafter "respondent") to the Commission's letter dated September 26, 1984 stating that the Commission has determined that there is reason to believe that respondent violated §441b(a) of the Federal Election Campaign Act of 1971, as amended ("the Act") by "incur[ring] the total installation and deposit costs of telephones used by the Mondale For President Committee at the labor organization's facilities". The Quad City Federation of Labor submits for the two reasons that follow that the Commission should not have found reason to believe that respondent in this case violated the Act.

1. The instant matter was generated by a complaint as the Commission has acknowledged in its October 17, 1984 letter to respondent enclosing a copy of that complaint. The Commission's regulations provide with regard to "complaint-generated" compliance matters that respondents "shall be afforded an opportunity to demonstrate that no action should be taken on the basis of a complaint by submitting ... a letter or memorandum setting forth reasons why the Commission should take no action." 11 C.F.R. §111.6. The regulations further provide that the Commission "shall not take any action or make any finding against a respondent other than an action dismissing the complaint unless it has considered such response or unless no such response has been served upon the Commission within the [specified time period]". Id.

By finding reason to believe against respondent without first affording respondent an opportunity to demonstrate why no such action should be taken, the Commission has violated §437g(a) of the Act and §111.6 of its regulation and its reason to believe determination is therefore invalid and must be rescinded.

2. The Commission's September 26, 1984 letter states that the Commission's reason to believe determination "was based upon the General Counsel's analysis that the organization incurred the total installation and deposit costs of telephones

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used by the Mondale For President Committee at the labor organization's facilities."

That statement is wrong in two respects. First, the Quad City Federation of Labor leased 15 telephones located in Davenport, Iowa to the Mondale For President Committee. No deposit costs were incurred for those telephones.

Second, the Quad City Federation of Labor has billed the Mondale For President Committee for a pro-rata share of the costs of the telephones in Davenport based on the Committee's use of those phones. Although not required to do so by the Act or the Commission's regulations, the Quad City Federation elected to include a pro-rata share of the installation charges for the phones in the costs billed to the Mondale For President Committee.

In light of the fact that the Quad City Federation of Labor incurred no deposit costs for the telephones leased to the Mondale For President Committee and has already billed the Committee for a pro-rata share of the installation costs of those phones, the Commission should rescind its reason to believe determination in this matter and should take no further action against respondent.*/

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for respondent Quad City Federation of Labor

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*/ The showing above that there is no reason to believe that respondent has violated the Act demonstrates also that the Commission is without authority to propound written interrogatories in this matter. See 11 C.F.R. §111.10.

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Ms. Peggy McCormick

ADDRESS: AFL-CIO Legal Department
Room 804, 815 16th Street, N.W.
Washington D.C. 20006

TELEPHONE: 202/637-5397

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

Oct. 18, 1984
Date

Ronald L. Laetz
Signature

RESPONDENT'S NAME: Quad City Federation of Labor, AFL-CIO

ADDRESS: 311½ 21st Street
Rock Island, Illinois 61201

HOME PHONE:

BUSINESS PHONE: 309/788-1303

8504054174 9

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006

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

2040541

GEC #8487

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

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November 1, 1984

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

RECEIVED
FEDERAL ELECTION COMMISSION
GENERAL COUNSEL
84 NOV 1 P3:52

Re: FEC MUR 1641

Dear Mr. Steele:

This letter constitutes the response of the Keokuk Labor Fraternal Council (hereinafter "respondent") to the Federal Election Commission's letter dated September 26, 1984 stating that the Commission has determined that there is reason to believe that respondent violated §441b(a) of the Federal Election Campaign Act of 1971, as amended ("the Act") by "incur[ring] the total installation and deposit costs of telephones used by the Mondale For President Committee...".

For the reasons set forth below, the Commission should rescind its reason to believe determination in the above-referenced matter and should take no further action against respondent:

1. The instant matter was generated by a complaint as the Commission has acknowledged in its October 17, 1984 letter to respondent enclosing a copy of that complaint. The Commission's regulations provide with regard to "complaint generated" compliance matters that respondents "shall be afforded an opportunity to demonstrate that no action should be taken on the basis of a complaint by submitting ... a letter or memorandum setting forth reasons why the Commission should take no action." 11 CFR §111.6. The regulations further provide that the Commission "shall not take any action or make any finding against a respondent other than an action dismissing the complaint unless it has considered such response or unless no such response has been served upon the Commission within the [specified time period]." Id.

By finding reason to believe against respondent without first affording respondent an opportunity to demonstrate why no such action should be taken, the Commission has violated §437g(a) of the Act and §111.6 of its regulations and its reason to believe determination is therefore invalid and must be rescinded.

2. The Commission's September 26, 1984 letter states that the Commission's reason to believe determination "was based upon the General Counsel's analysis that the Keokuk Labor Fraternal Council incurred the total installation and deposit costs of telephones used by the Mondale For President Committee ...". That statement is wrong for the following reason: the telephone belonging to the

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Keokuk Labor Fraternal Council that was leased to the Mondale For President Committee ("Mondale Committee") is a business phone, installed over 15 years ago and used continuously by respondent thereafter to and including the date of this response.

Even if the Commission's regulations or advisory opinions required that a pro-rata share of telephone deposit and installation costs be billed to political committees using labor organization's phones, which they do not, any installation and deposit costs for the phone used by the Mondale Committee have long since been amortized by respondent's business use of that phone. Since there are no calculable installation or deposit costs for the telephone which respondent leased to the Mondale Committee, respondent's failure to include those costs in the amount which the Council billed to the campaign for phone usage and space did not violate 2 U.S.C. §441b(a).*/

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for Respondent

8504117502

---

*/ Respondent's showing above that there is no reason to believe that respondent has violated 2 U.S.C. §441b(a) demonstrates also that the Commission is without authority to propound written interrogatories in this matter. See 11 C.F.R. §111.10.

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Margaret McCormick, General Counsel

ADDRESS: 815 16th St. N.W.
Washington, D.C. 20006

TELEPHONE: (202) 637-5397

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

October 2, 1984
Date

Jerry A. Kearns
Signature

RESPONDENT'S NAME: Jerry A. Kearns

ADDRESS: Keokuk Labor Fraternal Council
Labor Temple
301 Blondeau Street Keokuk, Iowa 52632

HOME PHONE: (319) 524-1570

BUSINESS PHONE: (319) 524-2003

8504175 3

LAW OFFICES
ADAIR, SCANLON AND MCHUGH, P.C.
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WASHINGTON, D.C. 20006

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

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Sixteenth Street, N.W.
shington, D.C. 20006

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

GCC # 5436

American Federation of Labor and Congress of Industrial Organizations

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RECEIVED
FEDERAL ELECTION COMMISSION
GENERAL COUNSEL
'84 NOV 1 P3:53

November 1, 1984

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

Re: FEC MUR 1641

Dear Mr. Steele:

This letter constitutes the response of the Black Hawk Labor Temple Corporation (hereinafter "respondent") to the Commission's letter dated September 26, 1984 stating that the Commission has determined that there is reason to believe that respondent violated 2 U.S.C. §441b(a) by "incur[ring] the total installation and deposit costs of telephones used by the Mondale For President Committee ...".

For the reasons set forth below the Commission should rescind its reason to believe finding in this matter and should take no further action against respondent:

1. The instant matter was generated by a complaint, as the Commission has acknowledged in its October 17, 1984 letter to respondent enclosing a copy of that complaint. The Commission's regulations provide with regard to "complaint generated" compliance matters that respondents "shall be afforded an opportunity to demonstrate that no action should be taken on the basis of a complaint by submitting ... a letter or memorandum setting forth reasons why the Commission should take no action." 11 CFR 111.6. The regulations further provide that the Commission "shall not take any action or make any finding against a respondent other than an action dismissing the complaint unless it has considered such response or unless no such response has been served upon the Commission within the [specified time period.]" Id.

By finding reason to believe against respondent without first affording respondent an opportunity to demonstrate why no such action should be taken, the Commission has violated §437g(a) of the Act and §111.6 of its regulations and its reason to believe determination is therefore invalid and must be rescinded.

2. The Commission's reason to believe determination is based upon the General Counsel's statement that: "evidence in hand indicates that the instant labor organization permitted its telephones to be utilitized by [the Mondale for President Committee] and that the Mondale for President Committee failed to pay the labor organization for any portion of the telephone's deposit and installation costs." FEC General Counsel's Factual and Legal Analysis MUR 1641.

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That statement is totally incorrect. The Black Hawk Labor Temple Corporation did not lease or otherwise permit the use of any of the telephones belonging to the organization by the Mondale For President Committee. The Mondale For President Committee leased an office from the Corporation for December 16, 1981 until January 9, 1984. The office used by the Committee had no phone. The Corporation billed the Committee for the latter's use of office space at the same rate the Corporation charges all organization's leasing office space in the Corporation's building.

Since the Mondale For President Committee did not use any telephones belonging to the Black Hawk Labor Temple Corporation, the Commission should rescind its determination that there reason to believe that respondent violated 2 U.S.C. §441b(a) by incurring the total installation and deposit costs of telephones used by the Mondale For President Committee and should take no further action against respondent.*/

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for respondent

8504057

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*/ Respondent's showing above that there is no reason to believe that respondent has violated the Act demonstrates also that the Commission is without authority to propound written interrogatories in this matter. See 11 C.F.R. §111.10.

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Margaret McCormick

ADDRESS: AFL-CIO Legal Department
Room 804
815 16th Street, N.W.
Washington D.C. 20006

TELEPHONE: (202) 637-5397

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

Oct. 4, 1984
Date

Donald J. Feurt
Signature

RESPONDENT'S NAME: Black HawK Labor Temple Corporation

ADDRESS: 1695 Burton Avenue
Waterloo, Iowa 50703

HOME PHONE:

BUSINESS PHONE: 319-233-8050

8504054758

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006

040547

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

GCC#5435

American Federation of Labor and Congress of Industrial Organizations

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EXECUTIVE COUNCIL

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GENERAL COUNSEL
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November 1, 1984

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

Re: FEC MUR 1641

Dear Mr. Steele:

This letter constitutes the response of the Washington State Labor Council, AFL-CIO (hereinafter "Council") to the Federal Election Commission's letter dated September 26, 1984 stating that the Commission has determined that there is reason to believe that respondent violated §441b(a) of the Federal Election Campaign Act of 1971, as amended ("the Act") by "incur[ring] the total installation and deposit costs of telephones used by the Mondale For President Committee at the labor organization's facilities." The Washington State Labor Council, AFL-CIO, submits for the two reasons that follow, that the Commission should not have found reason to believe that respondent in this case violated the Act.

1. The instant matter was generated by a complaint as the Commission has ackowledged in its October 17, 1984, letter to respondent enclosing a copy of that complaint. The Commission's regulations provide with regard to "complaint generated" compliance matters that respondents "shall be afforded an opportunity to demonstrate that no action should be taken on the basis of a complaint by submitting ... a letter or memorandum setting forth reasons why the Commission should take no action." 11 C.F.R. §111.6. The regulations further provide that the Commission "shall not take any action or make any finding against a respondent other than action dismissing the complaint unless it has considered such response or unless no such response has been served upon the Commission within the [specified time period."] Id.

By finding reason to believe against respondent without first affording respondent an opportunity to demonstrate why no action should be taken, the Commission has violated §437g(a) of the Act and §111.6 of its regulations and its reason to believe determination is therefore invalid and must be rescinded.

3504017760

2. The Commission's September 26, 1984, letter states that the Commission's reason to believe determination "was based upon the General Council's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale For President Committee at the labor organization's facilities." That statement is wrong in two respects.

First, the Washington State Labor Council ("Council") leased a number of telephones at eight locations throughout the state to the Mondale For President Committee ("Mondale Committee") for various periods of time. With the exception of the Washington State Labor Council telephones located in Everett, Washington, no deposit costs were incurred for the telephones leased to the Mondale Committee. In Everett, the Council paid a deposit prior to the installation of the telephones which was credited in full towards the Council's first bill for those phones. Even though the Council received a credit for its deposit in the first phone bill, the Council calculated the Mondale For President Committee's pro-rata share of that phone bill based on the normal and usual monthly service charges for the phones (plus actual long distance) rather than on the amount actually paid by the Council. Based on the above, it is clear that the Washington State Labor Council had no obligation to charge the Mondale For President Committee for a pro-rata share of the deposit for the Everett phones since the benefit of that deposit accrued solely to the Council and not to the Mondale For President Committee.

Second, the Washington State Labor Council, AFL-CIO, has billed the Mondale For Labor Committee for a pro-rata share of the costs of the Council's telephones based on the Committee's use of the phones. Although not required to do so by the Act or the Committee's regulations, the Washington State Labor Council, AFL-CIO, elected to include a pro-rata share of the installation charges for the telephones used by the Mondale For President Committee in the costs billed to the Mondale Committee.

For the foregoing reasons, the Commission should rescind its reason to believe determination in this matter and should take no further action against the Washington State Labor Council, AFL-CIO.

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for Washington State
Labor Council, AFL-CIO

3504041761

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

Name of Counsel: Margaret E. McCormick

Address: 815 16th Street, N. W., Room 804, Washington, D.C. 20006
General Counsel's Office
Phone: (202) 637-5397 (O); (301) 656-9612 (H)

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

Dated this 26th day of October, 1984

Marvin L. Williams, President

Respondent's Name: Washington State Labor Council, AFL-CIO

Address: 2815 Second Avenue, Room 470
Seattle, Washington 98121

Phone: (206) 682-6002

opeiu 8/afl-cio

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erican Federation of Labor and Congress of Industrial Organizations

xteenth Street, N.W.
ington, D.C. 20006

Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

0405 1

GCC #5434

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

EXECUTIVE COUNCIL

LANE KIRKLAND PRESIDENT THOMAS R. DONAHUE SECRETARY-TREASURER

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RECEIVED
FEDERAL ELECTION COMMISSION
84 NOV 1 P3:54

November 1, 1984

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

Re: FEC MUR 1641

Dear Mr. Steele:

This letter constitutes the response of the Muskogee and Vicinity Central Labor Council, AFL-CIO (hereinafter "Muskogee AFL-CIO") to the Federal Election Commission's letter dated September 26, 1984 stating that the Commission has determined that there is reason to believe that respondent violated §441b(a) of the Federal Election Campaign Act of 1971, as amended ("the Act") by "incur[ring] the total installation and deposit costs of telephones used by the Mondale For President Committee at the labor organization's facilities." The Muskogee AFL-CIO submits, for the two reasons that follow, that the Commission should not have found reason to believe that the Muskogee AFL-CIO violated the Act.

1. The instant matter was generated by a complaint as the Commission has acknowledged in its October 17, 1984 letter to respondent enclosing a copy of that complaint. The Commission's regulations provide with regard to "complaint generated" compliance matters that respondents "shall be afforded an opportunity to demonstrate that no action should be taken on the basis of a complaint by submitting... a letter or memorandum setting forth reasons why the Commission should take no action." 11 C.F.R. §111.6. The regulations further provide that the Commission "shall not take any action or make any finding against a respondent other than action dismissing the complaint unless it has considered such response or unless no such response has been served upon the Commission within the [specified time period]" Id.

2. The Commission's September 26, 1984 letter states that the Commission's reason to believe determination "was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of the telephones used by the Mondale For President Committee at the labor organization's facilities."

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That statement is wrong in two respects. First, the Muskogee AFL-CIO leased eight telephones located in Muskogee, Oklahoma during the period from December 1983 through March 17, 1984 to the Mondale For President Committee. No deposit costs were incurred for those telephones.

Second, the Muskogee AFL-CIO has billed the Mondale For President Committee for a pro-rata share of the costs of the organization's telephones based on the Committee's use of the phones. Although not required to do so by the Act or the Commission's regulations, the Muskogee AFL-CIO elected to include a pro-rata share of the installation charges for its Muskogee telephones in the costs billed to the Mondale For President Committee.

In light of the fact that the Muskogee AFL-CIO incurred no deposit costs for the telephones leased to the Mondale For President Committee and has already billed the Committee for a pro-rata share of the installation costs for those phones, the Commission should rescind its reason to believe determination in this matter and should take no further action against respondent.*/

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for Muskogee and Vicinity
Central Labor Council, AFL-CIO

8504017653

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*/ The showing above that there is no reason to believe that respondent has violated the Act demonstrates also that the Commission is without authority to propound written interrogatories in this matter. See 11 C.F.R. §111.10.

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Margaret McCormick

ADDRESS: AFL-CIO Legal Dept. Room 804
815 16th Street, N.W.
Washington D.C. 20006

TELEPHONE: 202-637-5397

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

10-11-84
Date

Roy L. Hawkins
Signature

RESPONDENT'S NAME: Roy L. Hawkins

ADDRESS: 100 N. York
Muskogee, Oklahoma 74403

HOME PHONE: 918/683-9535

BUSINESS PHONE: 918/682-8011

8504054176 5

American Federation of Labor and Congress of Industrial Organizations

15 Sixteenth Street, N.W.
Washington, D.C. 20006

5040

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

GCC#5439

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

EXECUTIVE COUNCIL

LANE KIRKLAND PRESIDENT THOMAS R. DONAHUE SECRETARY-TREASURER

John H. Lyons
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Frank Drozak
Richard I. Kilroy
William H. Bywater
Kenneth J. Brown
Lynn R. Williams

November 1, 1984

RECEIVED
'84 NOV 1 P3:49
GENERAL COUNSEL

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

Re: FEC MUR 1641

Dear Mr. Steele:

This letter constitutes the response of the Ohio AFL-CIO (hereinafter "respondent") to the Federal Election Commission's letter dated September 26, 1984 stating that the Commission has determined that there is reason to believe that respondent violated §441b(a) of the Federal Election Campaign Act of 1971, as amended ("the Act") by "incur[ring] the total installation and deposit costs of telephones used by the Mondale For President Committee at the labor organization's facilities." The Ohio AFL-CIO submits, for the two reasons that follow, that the Commission should not have found reason to believe that respondent in this case violated the Act.1/

1. The instant matter was generated by a complaint as the Commission has acknowledged in its October 17, 1984 letter to respondent enclosing a copy of that complaint. The Commission's regulations provide with regard to "complaint generated" compliance matters that respondents "shall be afforded an opportunity to demonstrate that no action should be taken on the basis of a complaint by submitting... a letter or memorandum setting forth reasons why the Commission should take no action." 11 CFR §111.6. The regulations further provide that the Commission "shall not take any action or make any finding against a respondent other than an action dismissing the complaint unless it has considered such response or unless no such response has been served upon the Commission within the [specified time period]" Id.

1/ We note that the Commission's September 26, 1984 letter in this matter was addressed to Milan Marsh, President, Ohio AFL-CIO, and to Jack Reihl. Jack Reihl is not an officer of the Ohio AFL-CIO. He is the Secretary-Treasurer of the Wisconsin State AFL-CIO.

8504041756

By finding reason to believe against respondent without first affording respondent an opportunity to demonstrate why no such action should be taken, the Commission has violated §437g(a) of the Act and §111.6 of its regulations and its reason to believe determination is therefore invalid and must be rescinded.

2. The Commission's September 26, 1984 letter states that the Commission's reason to believe determination "was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale For President Committee at the labor organization's facilities."

That statement is wrong in two respects. First, the Ohio AFL-CIO leased 18 telephones located in Cleveland, Ohio, to the Mondale for President Committee for a total of seven (7) days. No deposit costs were incurred for those telephones.

Second, the Ohio AFL-CIO has billed the Mondale For President Committee for a pro-rata share of the costs of the telephones in Cleveland based on the Committee's use of those phones. Although not required to do so by the Act or the Commission's regulations, the Ohio AFL-CIO elected to include a pro-rata share of the installation charges for the phones in the costs billed to the Mondale For President Committee.

In light of the fact that the Ohio State AFL-CIO incurred no deposit costs for the telephones leased to the Mondale For President Committee and has already billed the Committee for a pro-rata share of the installation costs for those phones, the Commission should rescind its reason to believe determination in this matter and should take no further action against respondent.2/

Sincerely,

Laurence Gold

Margaret E. McCormick

Margaret E. McCormick

Counsel for Respondent

2/ The showing above that there is no reason to believe that respondent has violated the Act demonstrates also that the Commission is without authority to propound written interrogatories in this matter. See 11 C.F.R. §111.10.

3504041762

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Margaret McCormick and Laurence Gold

ADDRESS: 815 16th Street, NW - Room 808
Washington, D. C. 20006

TELEPHONE: 202-637-5345 / 202-637-5390

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

October 10, 1984
Date

Milan Marsh
Signature

RESPONDENT'S NAME: Milan Marsh

ADDRESS: Ohio AFL-CIO
271 East State Street
Columbus, Ohio 43215

HOME PHONE: 216-759-1400

BUSINESS PHONE: 614-224-8271

8504054170

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006

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

GCC # 5440

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

EXECUTIVE COUNCIL

LANE KIRKLAND PRESIDENT THOMAS R. DONAHUE SECRETARY-TREASURER

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Kenneth T. Blaylock
William H. Wynn
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Kenneth J. Brown
Lynn R. Williams

November 1, 1984

RECEIVED
FEDERAL ELECTION COMMISSION
GENERAL COUNSEL
84 NOV 1 P3:47

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

Re: FEC MUR 1641

8 3 0 4 0 5 4 1 7 7 2

Dear Mr. Steele:

This letter constitutes the response of the Maine State AFL-CIO (hereinafter "respondent") to the Federal Election Commission's letter dated September 26, 1984 stating that the Commission has determined that there is reason to believe that respondent violated §441b(a) of the Federal Election Campaign Act of 1971, as amended ("the Act") by "incur[ring] the total installation and deposit costs of telephones used by the Mondale For President Committee at the labor organization's facilities." The Maine AFL-CIO submits, for the two reasons that follow, that the Commission should not have found reason to believe that respondent in this case violated the Act.

1. The instant matter was generated by a complaint as the Commission has acknowledged in its October 17, 1984 letter to respondent enclosing a copy of that complaint. The Commission's regulations provide with regard to "complaint generated" compliance matters that respondents "shall be afforded an opportunity to demonstrate that no action should be taken on the basis of a complaint by submitting ... a letter or memorandum setting forth reasons why the Commission should take no action." 11 CFR 111.6. The regulations further provide that the Commission "shall not take any action or make any finding against a respondent other than an action dismissing the complaint unless it has considered such response or unless no such response has been served upon the Commission within the [specified time period.]" Id.

By finding reason to believe against respondent without first affording respondent an opportunity to demonstrate why no such action should be taken, the Commission has violated §437g(a) of the Act and §111.6 of its regulations and its reason to believe determination is therefore invalid and must be rescinded.

2. The Commission's September 26, 1984 letter states that the Commission's reason to believe determination "was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale For President Committee at the labor organization's facilities."

That statement is wrong in two respects. First, the Maine State AFL-CIO leased four WATs lines located in Portland, Maine, during the period 1/16/84 through 3/5/84 to the Mondale for President Committee. No deposit costs were incurred for those WATs lines.

Second, the Maine AFL-CIO has billed the Mondale For President Committee for a pro-rata share of the costs of the organization's Portland WATs lines based on the Committee's use of those lines. Although not required to do so by the Act or the Commission's regulations, the Maine AFL-CIO elected to include a pro-rata share of the installation charges for the WATs lines in the costs billed to the Mondale For President Committee.

In light of the fact that the Maine State AFL-CIO incurred no deposit costs for the telephones leased to the Mondale For President Committee and has already billed the Committee for a pro-rata share of the installation costs for those phones, the Commission should rescind its reason to believe determination in this matter and should take no further action against respondent.*/

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for Respondent

3504041773

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*/ The showing above that there is no reason to believe that respondent has violated the Act demonstrates also that the Commission is without authority to propound written interrogatories in this matter. See 11 C.F.R. §111.10.

STATEMENT OF DESIGNATION OF COUNSEL

MUR _____

NAME OF COUNSEL: Margaret McCormick, Esq.

ADDRESS: AFL-CIO
815 Sixteenth St., N.W.
Washington, D.C. 20006

TELEPHONE: 202-637-5397

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

October 1, 1984
Date

Charles J. O'Leary
Signature

RESPONDENT'S NAME: Charles J. O'Leary

ADDRESS: Maine AFL-CIO
72 Center St., P.O. Box 70
Brewer, Maine 04412

HOME PHONE: 207-866-5518

BUSINESS PHONE: 207-989-3630

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American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006

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

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UNITED PAPERWORKERS INTERNATIONAL UNION

WAYNE E. GLENN
President

LEGAL DEPARTMENT
LYNN AGEE, Esq.
MICHAEL HAMILTON, Esq.
MELINDA J. [illegible]COMB, Esq.
MARK M. [illegible]OOKS, Esq.

October 29, 1984

FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
84 NOV 1 AM 9:06

Ms. Maura White
Staff Attorney
Federal Election Commission
Washington, D.C. 20463

Re: United Paperworkers International Union, Local 75
MUR 1641

Dear Ms. White:

This will supplement and clarify a point in my letter to you of October 23, 1984. In reviewing the letter, I noticed that paragraph 4 was susceptible to misinterpretation.

Paragraph 4 stated: ". . . the telephones were installed on or about December 15, 1983, at a total cost of $267.72. The purpose of the installation was to provide telephone bank service to MPC during the New Hampshire primary."

In fact, the total cost of the installation of the telephones was $405.67 which is reflected on the second page of the invoice which I enclosed with my letter of October 23, 1984, as Exhibit B. The figure of $267.72 is the amount MPC was billed for installation representing 66% of the total cost. MPC was billed that amount because, as Exhibit B indicates, MPC used the installed telephones only 66% of the time they were in use. The remaining 34% of the time the telephones were in use is attributable to the Union's own efforts to reach its membership. Accordingly, my statement that the purpose of the installation was to provide telephone bank service to MPC during the New Hampshire primary is accurate only insofar as it concerns the period during which MPC used the telephones (66% of operator hours). The other purpose for the installation of the telephones was to provide a means by which the Union could contact its own membership.

8504054176

Re: United Paperworkers International Union, Local 75
MUR 1641

I hope this serves to clarify my letter of October 23.

Respectfully submitted,

Michael Hamilton
Counsel for UPIU Local 75

/sq

cc: George O'Bea, PEP Director
Eldon Hebert, Vice President, Region I
Ken Ramage, International Representative
Ed Ferraro, President, UPIU Local 75
P.O. Box G, Berlin, NH 03570

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UNITED PAPERWORKERS
INTERNATIONAL UNION
P.O. Box 1475
Nashville, Tennessee 37202

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Ms. Maura White
Staff Attorney
Federal Election Commission
Washington, D.C. 20463

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GCC#5840

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FEDERAL ELECTION COMMISSION
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84 OCT 31 PM 1:19

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA - UAW

OWEN F. BIEBER, PRESIDENT

RAYMOND E. MAJERUS, SECRETARY-TREASURER

VICE PRESIDENTS

BILL CASSTEVENS • DONALD F. EPHLIN • ODESSA KOMER • MARC STEPP • ROBERT WHITE • STEPHEN P. YOKICH

IN REPLY REFER TO
1757 N STREET, N.W.
WASHINGTON, D.C. 20036
TELEPHONE: (202) 828-8500

October 29, 1984

Lee Ann Elliott
Chairman
Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20463

Re: MUR 1641
(UAW Local 442)

Dear Chairman Elliott:

On October 1, 1984, UAW Local 442 received a letter from the Federal Election Commission, advising it that the Commission had determined that there is reason to believe that UAW Local 442 violated section 441b(a) of the Federal Election Campaign Act (FECA), 2 U.S.C. § 441b(a), "based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities." UAW Local 442 also received a series of interrogatories from the Commission. On October 22, 1984, UAW Local 442 subsequently received a statement of the legal and factual basis for the Commission's determination.

This is to advise you that I will be representing UAW Local 442 in connection with the above referenced case. Enclosed is the signed statement from UAW Local 442 designating me as their counsel. I would appreciate it if you would direct all future communications concerning this case to my attention.

Also enclosed is the response of UAW Local 442 to the interrogatories propounded by the Commission. As indicated in its response to these interrogatories, UAW Local 442 did enter into an "Agreement for the Use of Labor Organization Facilities and Equipment" with the Mondale for President Committee, Inc. ("MPC"), in which it agreed to allow the MPC to rent the use of the telephone in UAW Local 442's business office. There is only a single telephone in that office; it was installed many years ago, and is the telephone which UAW Local 442 uses for its regular, on-going business affairs.

After entering into the agreement, the MPC apparently changed its mind and decided that it did not want to use UAW Local 442's telephone. As a result, the MPC never actually used the telephone, or any other facilities and equipment of UAW Local 442.

8504041779

Since the MPC did not actually use any facilities or equipment of UAW Local 442, including its telephone, UAW Local 442 could not have violated section 441b(a) of the FECA by making an in-kind contribution to the MPC. Accordingly, there is no legal or factual basis for taking any further action against UAW Local 442 in connection with this case.

For the foregoing reasons, the Commission should find that UAW Local 442 did not violate section 441b(a) of the FECA, and should therefore take no further action against UAW Local 442 in connection with the present case.

Sincerely,

Alan V. Reuther
Assistant General Counsel

AVR:njk
opeiu494

Enclosures

cc: Maura White, Esq.

8504054179 0

8504041781

RESPONSE OF UAW LOCAL 442
TO INTERROGATORIES IN MUR 1641

On October 1, 1984, UAW Local 442 received interrogatories from the Commission in connection with MUR 1641. The following answers are submitted by the President of UAW Local 442, Charles Chandler, in response to those interrogatories.

1. UAW Local 442, by and through its President, Charles Chandler, entered into an "Agreement for the Use of Labor Organization Facilities and Equipment" with the Mondale for President Committee, Inc. ("MPC"), in which UAW Local 442 agreed to rent the use of its telephone to the MPC. However, the MPC never in fact used UAW Local 442's telephone, or any other facilities and equipment of UAW Local 442.

2. Not applicable.

3. Not applicable.

I am the President of UAW Local 442. The foregoing answers to the interrogatories propounded by the Commission were prepared with the assistance and advice of counsel for UAW Local 442. I declare under penalty of perjury that I am authorized to sign these responses on behalf of UAW Local 442, and that to the best of my knowledge the foregoing responses are true and correct.

Charles W. Chandler
Charles Chandler
President, UAW Local 442

State IOWA

County HAMILTON

SUBSCRIBED and SWORN TO before me
this 12 day of OCTOBER, 1984.

Notary Public

My Commission Expires On: 18 day Aug 1986

opeiu494
SD15

LAW OFFICES
PETERSON, GOODMAN, WIENERS & GUZINSKI, P.A.
202 OMNI BUILDING • 1652 GREENVIEW DRIVE S.W. • P.O. BOX 6477
ROCHESTER, MINNESOTA 55903

(507) 288-6705

RECEIVED THE FEC
GCC#5350
84 OCT 29 A8:

Dennis R. Peterson
Michael B. Goodman
Joseph F. Wieners
Joseph M. Guzinski

October 24, 1984

Kasson Office:
16 N. Mantorville Ave.
P.O. Box 1
Kasson, MN 55944
(507) 634-2831

Reply To: Rochester

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

Dear Mr. Gross:

RE: MUR 1641

Enclosed herewith and served upon you by mail please find Answers to Interrogatories in connection with the above-referenced matter.

Very sincerely yours,

PETERSON, GOODMAN, WIENERS & GUZINSKI, P. A.

Joseph M. Guzinski

JMG:jms
Enclosures
CC: Emery (Buck) Jackson

84 OCT 29 A11:14

3504054178 2

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ANSWERS TO INTERROGATORIES

Re: Hotel, Hospital, Restaurant and Tavern Employees, Local 21

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

STATE OF MINNESOTA)
) SS
COUNTY OF OLMSTED)

Emery T. (Buck) Jackson, Business Manager for Hotel, Hospital, Restaurant and Tavern Employees, Local 21, for his answers to the interrogatories of the Federal Election Commission, states as follows:

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

ANSWER: My name is Emery T. (Buck) Jackson and I am the business manager for the Hotel, Hospital, Restaurant and Tavern Employees, Local 21. As business manager for this union I authorized the use of our telephones by the Mondale for President Committee, Inc.

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

ANSWER:

a) telephones belonging to Local 21 were used by the Mondale for President Committee, Inc., on February 10, 13 and 14, 1984;
b) the telephones belonging to Local 21 were used in its offices located at 405 1/2 South Broadway, Rochester, MN 55902;
c) the total amount of time the telephones belonging to Local 21 were used by the Mondale for President Committee, Inc., was 271 minutes;
d) the total number of telephones belonging to Local 21 which were used by the Mondale for President Committee, Inc. was three.

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3. If the answer to question 1 is yes, state:
   a) the date that each of the telephones used by MPC were installed;
   b) the cost of the installations;
   c) the purpose of the installations;
   d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC including the substance of each such conversation;
   e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
   f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

ANSWER:

a) the telephones belonging to Local 21 which were used by the Mondale for President Committee, Inc. were installed in our offices in April of 1975;

b) the cost of the installations of the telephones belonging to Local 21 and used by the Mondale for President Committee, Inc., was as follows:

Service charge	$ 9.00
Line charge	10.20
Telephones	57.50
Total	$76.70

c) the telephones belonging to Local 21 which were used by the Mondale for President Committee, Inc. were installed for the purpose of conducting union business including such things as communicating with union members and employers, and in general, in serving the interests of the members of Local 21.

d) neither the Mondale for President Committee, Inc., nor any of its agents discussed the use or installation of the telephones with any agent of Local 21 prior to the installation of the telephones which were ultimately used by the Mondale for President Committee, Inc.

e) the amount of the deposit paid by Local 21 in connection with the telephones ultimately utilized by the Mondale for President Committee, Inc. is disclosed in answer (b) hereinabove. The deposit on the telephone company's equipment was in the sum of $57.50.

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f) the Mondale for President Committee, Inc. was not billed by Local 21 for any portion of the telephone installation or deposit costs. However, the Mondale for President Committee, Inc., was billed a total of $86.40 for using 271 minutes of telephone time. The date of this billing by Local 21 to the Mondale for President Committee, Inc. is February 28, 1984. Local 21 did not install and/or pay installation costs or deposits for telephone service for use by the Mondale for President Committee, Inc. at the Labor Organization's facilities.

Emery T. (Buck) Jackson

Subscribed and sworn to before me this 24th day of October, 1984

Notary Public
Olmsted County, Minnesota
My Commission expires _____

JOSEPH M. GUZINSKI
NOTARY PUBLIC-MINNESOTA
OLMSTED COUNTY
MY COMMISSION EXPIRES JAN. 13, 1985

8504051785

TERSON, GOODMAN, WIENERS & GUZINSKI, P.A.
202 OMNI BUILDING • 1652 GREENVIEW DRIVE S.W.
P.O. BOX 6477 • ROCHESTER, MINNESOTA 55903

3504054173

[redacted]

QPC

10:00 AM 02 OCT 1998

RECEIVED AT THE FEC
GCC#5351
84 OCT 29 A9:

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MARILYN S. MAY*
ROBERT T. FENDT*
ROBERT TIM BROWN*
MARTHA WALFOORT
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†ALSO ADMITTED IN VIRGINIA
*NOT ADMITTED IN DISTRICT OF COLUMBIA

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VIRGINIA OFFICE
10311 COMMONWEALTH BLVD.
FAIRFAX, VA. 22032

OF COUNSEL
DENNIS D. CLARK
BARBARA [illegible]SKY

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
'84 OCT 29 A11:11

October 26, 1984

Charles N. Steele, Esquire
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1641

Dear Mr. Steele:

Pursuant to 2 U.S.C. §437g(a)(1) and 11 C.F.R. §111.6, Respondent AFSCME Local 372 respectfully requests, for the reasons stated below, that the Federal Election Commission take no action against it with respect to the matters raised in the Commission's internally-generated complaint concerning the above-captioned matter and dismiss such complaint.

The Commission's initial letter containing its determination that there was reason to believe that a violation of 2 U.S.C. §441b(a) was committed stated that it was "based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities." Chairman Elliott's letter said nothing more about the legal basis or alleged facts which support this finding and the letter failed to "include a copy of a staff report setting forth the legal basis and the alleged facts which support the Commission's action" as required by 11 C.F.R. §111.8(b).

Subsequently, on October 18, 1984, the undersigned, as counsel for Respondent, received a follow-up letter from the General Counsel's office which enclosed a copy of their Factual and Legal Analysis. That letter advised us that Respondent would have ten days from receipt of that letter within which to

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respond to the complaint and the Commission's interrogatories. The answers to those interrogatories are enclosed with this response to the Commission's complaint.

As can be seen from the enclosed responses to the Commission's interrogatories, the telephones which were leased to the Mondale campaign represented only a relatively small portion of the telephones the Respondent had installed for its own purposes well over a year before their use by the Mondale campaign. There was no consultation with the Mondale campaign with regard to the installation of those telephones and the telephones were, in fact, installed and used primarily for purposes which had nothing to do with either the Mondale campaign or any other election for federal office. As is also stated in response to your interrogatories, Respondent leased certain of its telephones to the Mondale campaign for its use on five evenings in late May and early June of 1984. The number of telephones used by the Mondale campaign on those dates ranged from six to eighteen, and the telephones were used by the Mondale campaign for approximately three hours on each of the five days of use.

The General Counsel's Factual and Legal Analysis states that "by incurring the total amount of the telephones' deposit and installation costs, the instant labor organization has made a contribution to MPC. . . ." Repondent will concede that it did not charge the Mondale campaign for any portion of whatever installation costs and deposits it may have paid when these telephones were installed. Respondent will not concede that there is any requirement in the Act, the Commission's Regulations, its Advisory Opinions or previous MUR's that a candidate be charged for installation costs or deposits when it leases telephones from a labor organization for use in connection with its campaign. However, even if there were such a requirement, Respondent submits that where, as here, the telephones were installed more than a year before their use by the campaign without any consultation between the labor organization and the campaign and were installed and used almost exclusively for union purposes having nothing to do with this or any other campaign for federal office, there is no basis whatever for requiring a labor organization to include any amount for deposits or installations costs in calculating the amount it will charge a campaign to which it leases those telephones. Moreover, even assuming <u>arguendo</u> that there were such a requirement applicable to this Respondent, the appropriate charge to the campaign for its proportionate share of such costs would be <u>di minimus</u> where the telephones were

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installed well over a year before their use by the campaign and heavily used for other purposes during the intervening period.

For these reasons, Respondent respectfully submits that it has not violated the Act and that the complaint against it herein should be dismissed.

Sincerely,

Larry P. Weinberg

LPW:kt

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RK
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SUITE 800
1100 17TH STREET, N.W.
WASHINGTON, D.C. 20036

The United W

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Charles N. Steele, Esquire
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

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GCC# 5340

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA—UAW

OWEN F. BIEBER, PRESIDENT RAYMOND E. MAJERUS, SECRETARY-TREASURER

VICE PRESIDENTS

BILL CASSTEVENS • DONALD F. EPHLIN • ODESSA KOMER • MARC STEPP • ROBERT WHITE • STEPHEN P. YOKICH

IN REPLY REFER TO
1757 N STREET, N.W.
WASHINGTON, D.C. 20036
TELEPHONE: (202) 828-8500

October 29, 1984

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
OCT 29 A10:13

Lee Ann Elliott
Chairman
Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20463

Re: MUR 1641
(Muskegon County UAW CAP Council)

Dear Chairman Elliott:

On October 1, 1984, the Muskegon County UAW CAP Council ("CAP Council") received a letter from the Federal Election Commission, advising it that the Commission had determined that there is reason to believe that the CAP Council violated section 441b(a) of the Federal Election Campaign Act, 2 U.S.C. § 441b(a), "based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities." The CAP Council also received a series of interrogatories from the Commission. On October 19, 1984, the CAP Council subsequently received a statement of the legal and factual basis for the Commission's determination.

This is to advise you that I will be representing the CAP Council in the above referenced case. Enclosed is the signed statement from the CAP Council designating me as their counsel. I would appreciate it if you would direct all future communications concerning this case to my attention.

Also enclosed is the response of the CAP Council to the interrogatories propounded by the Commission. As indicated in the response to these interrogatories, the CAP Council did enter into an "Agreement for the Use of Labor Organization Facilities and Equipment" with the Mondale for President Committee, Inc. ("MPC"), in which it agreed to allow the MPC to rent the use of ten telephones. However, the MPC never actually used more than four of the telephones at any time.

The telephones were installed by the CAP Council on January 31, 1984. The telephones were installed for the purpose of enabling the CAP Council to conduct a program of internal communications directed at members of the CAP Council and their families in connection with the 1984 elections. The telephones were used by the CAP Council during the months of February and March, 1984, and again in September and October, 1984, in connection with this internal program. The telephones were also installed by the CAP Council in order to enable it to conduct similar internal

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communications programs in connection with future election campaigns and other activities.

The CAP Council did not discuss the installation or use of the telephones with the MPC prior to the installation of the telephones. After the telephones had been installed, the MPC approached the CAP Council about renting the use of the telephones. The MPC subsequently actually used the telephones from March 12 to March 16, 1984. The MPC never used more than four of the telephones at any time, and wound up using the telephones for a total of only 50 telephone hours.

The cost of installing all ten telephones (including tax) was $503.36. These installation costs included $251.42 in one-time-only charges for permanently installing the wiring and jacks. The charges for these permanent capital improvements will not have to be incurred again by the CAP Council in connection with future uses of the telephones. The installation costs also included $251.94 in charges for connecting the telephone lines. The charges for this service represent a recurring cost every time the telephone lines are connected. The CAP Council did not have to pay any deposits in connection with the telephones.

The CAP Council has billed the MPC for the normal and usual rental charge for the use of the telephones. This included a pro-rata share of the regular monthly service charges, any actual charges incurred by the MPC for long distance calls, and a pro-rata share of the rent for the office space, tables, chairs and utilities where the telephones were located. The CAP Council did not bill the MPC for any portion of the telephone installation costs.

The following statement is submitted on behalf of the CAP Council in response to the Commission's "reason to believe" determination. For the following reasons, the CAP Council submits that it has not violated section 441b(a) of the FECA. Accordingly, there is no legal or factual basis for taking any further action against the CAP Council in connection with this case.

First, the CAP Council submits that, as a matter of law, telephone installation and deposit costs do not have to be included in calculating the normal and usual rental charge for the use of corporate and union telephones. Section 114.9(d) of the Commission's regulations, 11 C.F.R. § 114.9(d), provides that:

> Persons . . . who make any use of corporate or labor organization facilities, such as by using telephones or typewriters or borrowing office furniture for activity in connection with a federal election are required to reimburse the corporation or labor organization within a commerically reasonable time, in the amount of the normal and usual rental charge . . . for the use of the facilities.

Section 100.7(a)(1)(iii)(B) of the Commission's regulations in turn defines the "normal and usual rental charge" as meaning "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution." 11 C.F.R. § 100.7(a)(1)(iii)(B).

These regulations make it clear that any candidate or political committee that uses corporate or labor organization telephones must reimburse the corporation or labor organization for the normal and usual rental charge — that is to say, the fair market value — for the use of the telephones. However, these regulations do not provide any

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further guidance as to how the "normal and usual rental charge" or "fair market value" should be calculated. Specifically, there is no indication in the regulations that any portion of the installation or deposit costs associated with telephones must be included in this calculation, and reimbursed by the candidate or political committee.

In various advisory opinions and compliance actions, the Commission has consistently reaffirmed the basic principle that any candidate or political committee must reimburse a corporation or labor organization for the normal and usual rental charge for the use of comporate or union telephones. But again, the Commission has never given any indication that any portion of the installation or deposit costs associated with the telephones would have to be reimbursed by the candidate or political committee.

In Opinion of Council 76-30, the General Council specifically ruled that if a candidate or political committee used corporate telephones during nonbusiness hours, the candidate or political committee would have to reimburse the corporation for the "normal and usual charge for renting telephones in the normal market." Significantly, however, the General Counsel went on to state that "Any method that would reasonably compute the rental value of these items would be acceptable to the Commission". (emphasis supplied) There was no indication in this opinion that any installation or deposit costs associated with the telephones would have to be reimbursed by the candidate or political committee.

Similarly, in Advisory Opinion 1978-34, the Commission ruled that a candidate would have to reimburse a corporation for the normal and usual rental charge for the use of certain corporate telephones, rather than simply paying a fixed charge per call. Again, however, the Commission did not refer at all to any installation or deposit costs.

In several compliance actions involving the Carter-Mondale Presidential Committee [MUR 1314(80); MUR 1369(81)], the Commission took the position that the Carter campaign had to pay the normal and usual rental charge for the use of various corporate and union facilities, including telephones. But the Commission did not even mention the installation or deposit costs associated with the telephones, let alone insist that the Carter campaign reimburse these costs. And in another compliance action involving the Reagan for President Committee [MUR 1349 (81)], the Commission concluded that the Reagan campaign had violated the FECA by paying corporations a daily charge for the use of certain telephone banks, rather than the usual and normal rental charge for the use of the telephones. Significantly, in requesting documentation concerning the value of renting the various facilities, the General Counsel only asked for records concerning "the monthly telephone service charge" and "any additional phone charges to the corporation for the cost of the phone calls made by committee volunteers". Again, there was no mention of any installation or deposit costs, or any suggestion that such costs would have to be included in calculating the normal and usual rental charge for the use of the telephones.

Thus, based on the Commission's regulations, advisory opinions and previous compliance actions, there is no basis for concluding that any portion of installation or deposit costs should be included in calculating the normal and usual rental charge for the use of corporate and union telephones, and thus reimbursed by a candidate or political committee. Indeed, the advisory opinions and compliance actions suggest that only the monthly service charge and any additional costs actually incurred by the corporation or labor union should be included, and that considerable latitude should be accorded to corporations and labor unions in making a reasonable calculation of the normal and usual rental charge for the use of their telephones.

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Any attempt by the Commission, in the context of the present compliance action, to formulate and apply a new rule regarding the manner in which the normal and usual rental charge for the use of corporate and union telephones should be calculated would be objectionable for a number of reasons. Section 437f(b) of the FECA specifically provides that the Commission may only propose a new rule or regulation pursuant to the procedures set forth in section 438(d), which provides for approval of any new rules and regulations by Congress. 2 U.S.C. §§ 437f(b) & 438 (d). This was intended to insure that persons would have prior notice of any changes in the rules and regulations governing political activity under the FECA. By taking the position in the present case that the CAP Council had to bill the MPC for a porton of the telephone deposit and installation costs, the Commission in effect is attempting to adopt a new interpretation of the term "normal and usual rental charge", and thus is trying to modify sections 114.9(d) and 100.7(a)(1)(iii)(B) of its regulations. This attempt to use a compliance action to circumvent the procedures set forth in sections 437f(b) and 438(d) of the FECA is clearly improper.

In addition, it is well established that the courts will not honor an agency's interpretation of its own regulations where that interpretation previously was not adequately articulated by the agency, or is inconsistent with earlier pronouncements by the agency. See e.g. Morton v. Ruiz, 415 U.S. 199, 237 (1974); Forbes Health Systems v. Harris, 661 F.2d 282, 286 (3d Cir. 1981); Marshall v. Anaconda Co., 596 F.2d 370, 376 (9th Cir. 1979); Usery v. Kennecott Copper Corp., 577 F.2d 1113 (10th Cir. 1977).

Furthermore, section 437f(c) of the FECA specifically provides that any person who has relied on and acted in good faith in accordance with the provisions of an advisory opinion shall not be subjected to any sanctions. 2 U.S.C. § 437f(c). Since the CAP Council certainly had good reason to believe, in light of the Commission's previous advisory opinions and compliance actions, that installation and deposit costs did not have to be included in calculating the normal and usual charge for the use of union telephones, the Commission cannot now impose any sanctions on the CAP Council for failing to bill the MPC for these costs.

Finally, because the Commission's regulations, advisory opinions and compliance actions do not contain any indication that any portion of telephone installation or deposit costs should be included in calculating the normal and usual rental charge for the use of corporate and union telephones, the Commission lacks subject matter jurisdiction over the present case. Cf. FEC v. Machinists Non-Partisan Political League, 655 F.2d 380 (D.C. Cir. 1981), cert. den. 454 U.S. 897 (1981).

Second, the facts and circumstances surrounding the installation and use of the CAP Council's telephones supports the conclusion that the CAP Council did not have to bill the MPC for any telephone installation costs. The telephones were installed by the CAP Council on January 31, 1984, well over a month before the telephones were used by the MPC beginning on March 12, 1984. The telephones were installed by the CAP Council for the purpose of conducting its own programs of internal communications directed at members of the CAP Council and their families. These programs were conducted by the CAP Council in February and March, 1984, and later in September and October, 1984 (and in fact are still being conducted by the CAP Council). The CAP Council also plans to use the telephones to conduct similar internal communications programs in the future.

The MPC did not discuss the use or installation of the telephones with the CAP Council prior to the installation of the telephones. After the telephones had been

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installed, the MPC approached the CAP Council about using the telephones, and entered into the "Agreement for the Use of Labor Organization Facilities and Equipment" with the CAP Council. However, the MPC actually only used the CAP Council's telephones from March 12, 1984 to March 16, 1984. The MPC never actually used more than four telephones at any time, and only used the telephones for a total of 50 telephone hours. This represented only 10% of the total time the telephones were used during the month of March.

Thus, there is simply no factual basis for attributing any installation costs to the MPC. The record clearly establishes that the telephones were installed by the CAP Council for its own purposes, not for the purpose of assisting the MPC. The record also establishes that the telephones were used almost exclusively by the CAP Council. The CAP Council has already used the telephones for four months in connection with its own internal communications programs, and it plans to use the telephones in connection with similar programs in the future. The MPC, on the other hand, only used the telephones during a single month, and then for only 10% of the total time the telephones were used during that month.

Even assuming arguendo that the CAP Council should have billed the MPC for a portion of the telephone installation costs, there still would not be any grounds for taking further action against the CAP Council in connection with the present case. At most, the portion of the installation costs which could even arguably be attributed to the MPC would be extremely small. As indicated in the CAP Council's response to the interrogatories propounded by the Commission, the installation of all ten telephones cost a total of $503.46. These installation costs included $251.42 in one-time-only charges for installing permanent wiring and jacks. Because the charges for these permanent capital improvements will not have to be incurred again in connection with future uses of the telephones, these costs would have to be amortized over the useful life of the wiring and jacks. The installation costs also included $251.94 in charges for connecting the telephone lines. Although the charges for this service must be incurred each time the telephones lines are connected, because the CAP Council has continued to use the telephones in connection with its own internal communciations program since the telephones were originally connected in January, 1984, these costs would also have to be amortized over a number of months. If the various installation costs described above are properly amortized using any reasonable formula, and if one takes into account the MPC's limited use of the telephones during the month of March, 1984 (which amounted to only 10% of the total time the telephones were used during that month), it becomes apparent that only a minuscule portion of the installation costs could possibly be attributed to the MPC. Accordingly, the CAP Council's alleged violation of section 441b(a) would, at most, represent a de minimus violation of the FECA. In view of the de minimus nature of the alleged violation, and the absence of any previous indication by the Commission in its regulations, advisory opinions and compliance actions that telephone installation costs should be included in calculating the normal and usual rental charge for the use of corporate and union telephones, the Commission certainly would not be warranted in taking any further action against the CAP Council in connection with this matter.

With respect to telephone deposit costs, the record shows that the CAP Council did not have to pay any deposits in connection with the telephones. Thus, there obviously was no reason to bill the MPC for any deposit costs.

For the foregoing reasons, the CAP Council submits that the Commission should find that the CAP Council did not violate section 441b(a) of the FECA, and should

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therefore take no further action against the CAP Council in connection with the present case.

Sincerely,

Alan V. Reuther
Assistant General Counsel

AVR:njk
opeiu494

Enclosures

cc: Maura White, Esq. ✓

8504054179 6

RESPONSE OF MUSKEGON COUNTY UAW CAP COUNCIL TO INTERROGATORIES IN MUR 1641

On October 1, 1984, the Muskegon County UAW CAP Council ("CAP Council") received interrogatories from the Commission in connection with MUR 1641. The following answers are submitted by the Chairman of the CAP Council, Douglas Smith, in response to those interrogatories.

1. The CAP Council, by and through its Chairman, Douglas Smith, entered into an "Agreement for the Use of Labor Organization Facilities and Equipment" with the Mondale for President Committee, Inc. ("MPC"), in which the CAP Council agreed to rent the use of ten telephones to the MPC. However, the MPC never actually used more than four of the CAP Council's telephones at any time.

2. a). The telephones were actually used by the MPC from March 12 to March 16, 1984.

   b). The telephones were located at 490 W. Western Ave., Muskegon, Michigan 49440.

   c). The telephones were only used by the MPC for a total of 50 telephone hours. This represented 10% of the total time the telephones were used during the month of March.

   d). The MPC never used more than four of the CAP Council's telephones at any time.

3. a). The telephones were installed by the CAP Council on January 31, 1984.

   b). The total cost of installing all ten telephones, (including tax) was $503.36. These installation costs included $251.42 in one-time-only charges for installing permanent wiring and jacks. The charges for this permanent capital improvement will not have to be incurred again by the CAP Council in connection with future uses of the telephones. The installation costs also included $251.94 in charges for connecting the telephone lines. The charges for this service represent a recurring cost every time the telephone lines are connected.

   c). The CAP Council installed the telephones for the purpose of conducting a program of internal communications directed at members of the CAP Council and their families in connection with the 1984 elections. The telephones were used by the CAP Council during the months of February and March 1984, and again in September and October 1984, in connection with this program. The telephones were also installed by the CAP Council in order to enable it to conduct similar

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internal communication programs in connection with future election campaigns and other activities.

d). The CAP Council did not discuss the use or installation of the telephones with the MPC prior to the installation of the telephones.

e). The CAP Council did not pay any deposits in connection with the telephones.

f). The CAP Council did not bill the MPC for any portion of the telephone installation costs.

I am the Chairman of the Muskegon County UAW CAP Council. The foregoing answers to the interrogatories propounded by the Commission were prepared with the assistance and advice of counsel for the CAP Council. I declare under penalty of perjury that I am authorized to sign these responses on behalf of the CAP Council, and that based on information and belief the foregoing responses are true and correct to the best of my knowledge.

Douglas Smith

Douglas Smith, Chairman
Muskegon County UAW CAP Council

State Missouri

County St. Louis

SUBSCRIBED and SWORN TO before me this 25 day of October, 1984.

Nancy Janette Azerolo

Notary Public

My Commission Expires On: 4-10-87

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DD28

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STATEMENT OF DESIGNATION OF COUNSEL

MUR _____

NAME OF COUNSEL: Alan Reuther

ADDRESS: 1757 N Street, N.W.
Washington, D.C. 20036

TELEPHONE: _____

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

October 2, 1984
Date

Douglas D. Smith
Signature

RESPONDENT'S NAME: Douglas D. Smith

ADDRESS: 490 W. Western Avenue
Muskegon, MI 49440

HOME PHONE: (616) 733-0360

BUSINESS PHONE: (616) 722-7474

8504054179 9

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA—UAW

OWEN F. BIEBER, PRESIDENT RAYMOND E. MAJERUS, SECRETARY-TREASURER

VICE PRESIDENTS

BILL CASSTEVENS • DONALD F. EPHLIN • ODESSA KOMER • MARC STEPP • ROBERT WHITE • STEPHEN P. YOKICH

IN REPLY REFER TO
1757 N STREET, N.W.
WASHINGTON, D.C. 20036
TELEPHONE: (202) 828-8500

October 29, 1984

Lee Ann Elliott
Chairman
Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20463

Re: MUR 1641
(UAW Local 442)

Dear Chairman Elliott:

On October 1, 1984, UAW Local 442 received a letter from the Federal Election Commission, advising it that the Commission had determined that there is reason to believe that UAW Local 442 violated section 441b(a) of the Federal Election Campaign Act (FECA), 2 U.S.C. § 441b(a), "based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities." UAW Local 442 also received a series of interrogatories from the Commission. On October 22, 1984, UAW Local 442 subsequently received a statement of the legal and factual basis for the Commission's determination.

This is to advise you that I will be representing UAW Local 442 in connection with the above referenced case. Enclosed is the signed statement from UAW Local 442 designating me as their counsel. I would appreciate it if you would direct all future communications concerning this case to my attention.

Also enclosed is the response of UAW Local 442 to the interrogatories propounded by the Commission. As indicated in its response to these interrogatories, UAW Local 442 did enter into an "Agreement for the Use of Labor Organization Facilities and Equipment" with the Mondale for President Committee, Inc. ("MPC"), in which it agreed to allow the MPC to rent the use of the telephone in UAW Local 442's business office. There is only a single telephone in that office; it was installed many years ago, and is the telephone which UAW Local 442 uses for its regular, on-going business affairs.

After entering into the agreement, the MPC apparently changed its mind and decided that it did not want to use UAW Local 442's telephone. As a result, the MPC never actually used the telephone, or any other facilities and equipment of UAW Local 442.

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Since the MPC did not actually use any facilities or equipment of UAW Local 442, including its telephone, UAW Local 442 could not have violated section 441b(a) of the FECA by making an in-kind contribution to the MPC. Accordingly, there is no legal or factual basis for taking any further action against UAW Local 442 in connection with this case.

For the foregoing reasons, the Commission should find that UAW Local 442 did not violate section 441b(a) of the FECA, and should therefore take no further action against UAW Local 442 in connection with the present case.

Sincerely,

Alan V. Reuther
Assistant General Counsel

AVR:njk
opeiu494

Enclosures

cc: Maura White, Esq. ✓

8504054180 1

RESPONSE OF UAW LOCAL 442 TO INTERROGATORIES IN MUR 1641

On October 1, 1984, UAW Local 442 received interrogatories from the Commission in connection with MUR 1641. The following answers are submitted by the President of UAW Local 442, Charles Chandler, in response to those interrogatories.

1. UAW Local 442, by and through its President, Charles Chandler, entered into an "Agreement for the Use of Labor Organization Facilities and Equipment" with the Mondale for President Committee, Inc. ("MPC"), in which UAW Local 442 agreed to rent the use of its telephone to the MPC. However, the MPC never in fact used UAW Local 442's telephone, or any other facilities and equipment of UAW Local 442.

2. Not applicable.

3. Not applicable.

I am the President of UAW Local 442. The foregoing answers to the interrogatories propounded by the Commission were prepared with the assistance and advice of counsel for UAW Local 442. I declare under penalty of perjury that I am authorized to sign these responses on behalf of UAW Local 442, and that to the best of my knowledge the foregoing responses are true and correct.

Charles W. Chandler

Charles Chandler
President, UAW Local 442

State IOWA

County HAMILTON

SUBSCRIBED and SWORN TO before me this 12 day of OCTOBER, 1984.

Notary Public

My Commission Expires On: 18 day Aug 1986

opeiu494
SD15

8504041802

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Alan Reuther

ADDRESS: 1757 N Street, N.W.
Washington, D.C. 20036

TELEPHONE: (202) 828-8500

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

Oct 12, 1984
Date

Charles Chandler
Signature

RESPONDENT'S NAME: Charles Chandler, President UAW Local 442

ADDRESS: 820 James Street
Webster City, Iowa 50595

HOME PHONE: (515) 832-4002

BUSINESS PHONE: (515) 832-2413

8504054180 3

RECEIVED AT THE FEC
GCC#8254
84 OCT 29 AM 11:14
GENERAL COUNSEL

United Steelworkers of America

AFL-CIO-CLC

ONE EAST WACKER DRIVE
SUITE 1910
CHICAGO, ILLINOIS 60601-1980
(312) 467-1995

October 24, 1984

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

Attention: Maura White

Re: MUR 1641
Mondale for President Committee

Dear Ms. White:

Thank you for sending to me copies of FEC Associate General Counsel Kenneth Gross' October 17, 1984 letters to Steelworkers Local Union 3539 (Albert Lea, Minnesota) and 2944 (Claremont, New Hampshire). They were received on October 19, 1984. By the terms of Associate General Counsel Gross' letters, therefore, responses by these two Steelworker Local Unions would be due on October 29, 1984.

I am in the process of receiving additional information from these two small local unions, neither of which maintains any clerical employees. In addition, I have federal district court and court of appeals briefs due on October 26 and October 31. I am scheduled to represent other local unions in hearings and oral arguments in federal court on November 2 and 14, 1984. Finally, I have been assigned to represent the Union in other matters on November 6 and on November 8 and 9, 1984.

For these reasons, on behalf of Steelworkers Local Unions 2944 and 3539, I am requesting extensions of time to November 9, 1984 for submission of those Local Unions' responses in this matter.

Very truly yours,

William H. Schmelling
Assistant General Counsel

WHS/am

cc: Alden G. Boardman, President, Local Union 2944, USWA
Richard Hagen, President, Local Union 3539, USWA
William J. Foley, Director, USWA, District 1
Eldon D. Kirsch, Director, USWA, District 33
Bernard Kleiman, General Counsel, USWA

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ted Steelworkers of America
AFL-CIO-CLC
ONE EAST WACKER DRIVE
SUITE 1910
CHICAGO, ILLINOIS 60601

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CHICAGO IL
OCT
USA 20

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

ttention: Maura White

84 OCT 29 A7:5

RECEIVED AT THE FEC
GCC#534.7
84 OCT 29 AM 9:44

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

HURON VALLEY
CENTRAL LABOR COUNCIL
AFL-CIO

FRED VEIGEL, President
SHIRLEY J. SMITH, Vice President
LOUIS BROUGH, Sec'y-Treas.
SHIRLEY DRESCHER, Rec. Sec'y
FRED VEIGEL, C.O.P.E. Chm.
Trustees MARLA L. SEBU,
N. CHURCHILL, E. SOPER

Federal Election Commission
Washington, DC 20463

October 4, 1984

Re: MUR 1641

84 OCT 29 AM 9:11
GENERAL COUNSEL

Members of the Commission:

This will acknowledge receipt of your communications of September 26 to the following:

Bricklayers, Trowel Trades Local 14
IBEW Electricians Local 252
Roofers Local 70
Carpenters Local 512
Plumbing Trades Local 190

The Commission's letter asserts that these labor organizations "incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organizations' facilities". I am responding to your communications inasmuch as I am head of the Huron Valley Central Labor Council, AFL-CIO, with which the above organizations are affiliated, and because I made the arrangements by which their telephones were made available to the Mondale Committee.

The information upon which the Commission made its determination is incorrect in the following respects:

1) None of the above organizations incurred an installation expense. All of their telephones were installed ten or more years ago.

2) None of the organizations incurred a deposit cost.

3) I arranged with the five organizations for the use of the telephones on a cost reimbursement basis, the same basis as they make telephones available to other local organizations. This is at a rate of $.085 per call. The Mondale Committee was billed accordingly.

If you have further questions, I will be pleased to respond.

Sincerely,

Fred Veigel
President, Huron Valley Central Labor Council, AFL-CIO
1231 Elbridge Place
Ypsilanti, MI 48197

I hereby declare that the above statements are true.

Fred Veigel

Sworn before me this 4th day of October 1984.

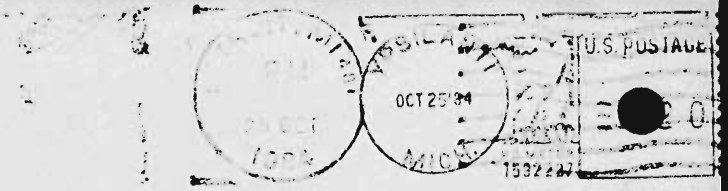
Notary Public

Washtenaw County

My Commission expires March 16, 1987

8504054180 6

LOCAL UNION 252
5300 West Michigan Avenue
Ypsilanti, Michigan 48197



Federal Election Commission
Washington, D.C. 20463

ATTN: Kenneth A. Gross

84 OCT 29 AM 10:04

850405 4

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Alan Reuther

ADDRESS: 1757 N Street, N.W.
Washington, D.C. 20036

TELEPHONE: (202) 828-8500

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

Apr 12, 1984
Date

Charles Chandler
Signature

RESPONDENT'S NAME: Charles Chandler, President UAW Local 442

ADDRESS: 820 James Street
Webster City, Iowa 50595

HOME PHONE: (515) 832-4002

BUSINESS PHONE: (515) 832-2413

8504054180 8

MCC#543

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

EXECUTIVE COUNCIL

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Richard I. Kilroy
William H. Bywater
Kenneth J. Brown
Lynn R. Williams

White 641

October 30, 1984

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF THE GENERAL COUNSEL
84 OCT 30 P4:55

Mr. Charles N. Steele, General Counsel
Federal Election Commission
1325 K St., N.W.
Washington, D.C. 20463

Dear Mr. Steele:

This letter constitutes the response of the Hillsborough County Central Labor Council, AFL-CIO, (hereinafter "H.C.C.L.C.") to the Commission's letter dated September 26,1984 stating that the Commission has determined that there is reason to believe that respondent violated §441b(a) of the Federal Election Campaign Act of 1971, as amended, ("The Act") by "incur[ring] the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities."

For the reasons set forth below, the Commission should rescind its reason-to-believe determination in the above-referenced matter and should take no further action against the Hillsborough County Central Labor Council.

1. The instant matter was generated by a complaint as the Commission has acknowledged in its October 17, 1984 letter to respondent enclosing a copy of that complaint. The Commission's regulations provide with regard to "complaint generated" compliance matters that respondents "shall be afforded an opportunity to demonstrate that no action should be taken on the basis of a complaint by submitting ... a letter or memorandum setting forth reasons why the Commission should take no action." 11 C.F.R. §111.6. The regulations further provide that the Commission "shall not take any action or make any finding against a respondent other than an action dismissing the complaint unless it has considered such repsonse or unless no such response has been served upon the Commission within the [specified time period.]" Id.

By finding reason to believe against respondent without first affording respondent an opportunity to demonstrate why no such action should be taken, the Commission has violated §437g(a) of the Act and §111.6 of its regulations and its reason to believe determination is therefore invalid and must be rescinded.

8504041803

2. The Commission's September 26, 1984 letter states that the Commission's reason to believe determination "was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities." The Mondale for President Committee ("Committee") leased six telephones for three hours a day for the period from February 22 to March 12, 1984 from the Hillsborough County Central Labor Council. H.C.C.L.C. has billed the Mondale Committee for a pro-rata share of the monthly service charges for those phones as well as costs of the long distance calls made by the Committee and a share of the overhead for the office space used by the Committee.

The Hillsborough County Central Labor Council incurred no deposit costs for the six telephones which the organization leased to the Mondale for President Committee. In this respect therefore, the Commission's reason to believe finding rests on an error of fact.

The installation costs for the six telephones leased part time to the Mondale Committee totalled $328.62. When that amount is pro-rated by the 56 days the phones were in service the result is a daily installation cost of $5.87. Since the Mondale for President Committee only used the phones 3 hours per day, the Committee's share of the daily installation cost would only amount to $2.19 which, multiplied by 14 — the number of days the Committee used the phones — amounts to $30.66.

Clearly, the installation costs involved in the instant matter are de minimis. Given the de minimis nature of the costs in question and the fact that the only guidance which the Commission has given as to what must be included in the "normal and usual rental charge" for telephones (Advisory Opinion 1978-34 and Opinion of Counsel 1976-30) gives no indication that de minimis costs such as this must be included in that charge, the Commission should take no further action in this matter and should close the file.*/

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for Hillsborough County
Central Labor Council

---

*/ The showing above that there is no reason to believe that respondent has violated the Act demonstrates also that the Commission is without authority to propound written interrogatories in this matter. See 11 C.F.R. 111.10.

8504181 0

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Margaret McCormick

ADDRESS: Room 804, 815 Fifteenth Street, N.W.
Washington D.C. 20006

TELEPHONE: (o) 202-637-5397
(h) 301-656-9612

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

October 2, 1984
Date

Signature

RESPONDENT'S NAME: Hillsborough County Central Labor Council

ADDRESS: 1701 North Franklin Street
Tampa, Florida 33602

HOME PHONE:

BUSINESS PHONE: 813/ 223-4490

8504054181

MUR 1641

OCC#5409

UFCW

Legal Department
(202) 466-1520 / 1523

October 30, 1984

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
84 OCT 30 P2:27

Ms. Maura White
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1641

Dear Ms. White:

I am writing in amplification of my letter to you in MUR 1641, dated October 29, 1984. The local unions in which existing telephones were used were Locals 6, 1161, 1169 and 1439. In the remaining cases a portion of the installation fees have been billed to the Mondale campaign and in the cases of the phones used by Locals 71 (Sioux City, Iowa), 271 (Council Bluffs, Iowa) and 431 (Muscatine, Iowa) payment has been received. The only instance in which a deposit was required by a telephone company was in Fort Dodge, Iowa, where Local 31P paid a $1000 deposit which has since been returned to the local union. The local received a credit of $26.63 for the interest earned on this amount.

Also enclosed is the Designation of Counsel from Jack Dorman of Local 31P.

Sincerely yours,

Edward P. Wendel

Edward P. Wendel
Assistant General Counsel

Enclosure

cc: Abbas
Chaplin
Fortune
Graham
Harrigan
Johnston
Martin
Olsen

EPW:sgg

8504181 2

William H. Wynn
International
President

Anthony J. Lutty
International
Secretary-Treasurer

United Food & Commercial Workers
International Union, AFL-CIO & CLC
1775 K Street, N.W.
Washington, D.C. 20006
(202) 223-3111

UFCW

United Food & Commercial Workers
International Union, AFL-CIO & CLC
1775 K Street, N.W.
Washington, D.C. 20006

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

94 OCT 30 P2:27

GCC#5397
RECEIVED AT THE FEC
84 OCT 30 A8:

United Brotherhood of Carpenters and Joiners of America

WILLIAM A. McDOWAN
GENERAL COUNSEL
ROBERT J. PLEASURE
ASSOCIATE GENERAL COUNSEL
KATHY L. KRIEGER
ASSISTANT GENERAL COUNSEL
EDWARD J. GORMAN, III

101 CONSTITUTION AVE., N.W.
WASHINGTON, D. C. 20001

October 29, 1984

Charles N. Steele, General Counsel
Federal Election Commission
Washington, D.C. 20463

84 OCT 30 A10:
RECEIVED
OFFICE OF THE
GENERAL COUNSEL

RE: MUR 1641
(Carpenters Local Union, 678)

Dear Mr. Steele:

This letter is submitted in response to the interrogatories directed to our Local 678 in the above-referenced case, and in light of the General Counsel's Factual and Legal Analysis.

The General Counsel's analysis, and the underlying complaint filed in MUR 1641, indicate that the Commission's "reason to believe" determination against Local 678 (Dubuque, Iowa) arose from Mr. Hettinga's complaint against MFP and certain labor organizations. Under 2 U.S.C. § 437g and 11 CFR §§ 111.6 and 111.7, the Commission is to provide a respondent an opportunity to demonstrate that no action should be taken against it, before finding reason to believe that a violation has been committed. After such procedures have been followed, the Commission is authorized to utilize certain investigatory processes, including written interrogatories. In this case, the Commission has not followed the prescribed procedures and has not given Local 678 an opportunity to respond before finding "reason to believe". Instead, the Commission seems to be using its interrogatories to conduct a "fishing expedition" into the affairs of Local 678, in order to elicit facts on which to predicate a "reason to believe" determination against that organization. Thus we believe that the interrogatories are improper at this time.

In any event, the General Counsel's analysis and "reason to believe" finding are erroneous. It cannot be established that Local 678 incurred telephone deposit costs in connection with a federal election campaign; further, the telephone costs charged to MFP include a share of installation costs.

Accordingly, we respectfully request that this matter be dismissed as regards Local 678 and that no further action be taken against that organization.

Very truly yours,

Kathy L. Krieger

Kathy L. Krieger
Counsel for Local 678

KLK/mkd

3 5 0 4 0 5 4 1 8 1 4

KATHY L. KRIEGER
ASSISTANT GENERAL COUNSEL
U. S. OF C. AND J. OF A.
CONSTITUTION AVE., N.W.
ASHINGTON, D. C. 20001

WASHINGTON, DC 200
PM
29 OCT
1984

USA 20

84 OCT 30 A8:20

Charles N. Steele
General Counsel
Federal Election Commission
Washington, D.C. 20463

5040181

GCC#5399
RECEIVED AT THE FEC
84 OCT 30 A8:

United Brotherhood of Carpenters and Joiners of America

WILLIAM A. McGOWAN
GENERAL COUNSEL
ROBERT J. PLEASURE
ASSOCIATE GENERAL COUNSEL
KATHY L. KRIEGER
ASSISTANT GENERAL COUNSEL
EDWARD J. GORMAN, III

101 CONSTITUTION AVE., N. W.
WASHINGTON, D. C. 20001

October 26, 1984

84 OCT 30 A8:05
GENERAL COUNSEL

Charles N. Steele, General Counsel
Federal Election Commission
Washington, D.C. 20463

RE: MUR 1641
(Carpenters Local Union 512)

Dear Mr. Steele:

This letter is in response to the interrogatories directed to Local 512 in the above-referenced case.

According to the accompanying General Counsel's Factual and Legal Analysis, the agency is proceeding against Local 512 based upon the Union's alleged incurring of the deposit and installation costs of telephones to be utilized by the Mondale for President Committee.

We contend that there is no basis for such an allegation regarding Local 512. That Local Union did not incur any telephone deposit or installation costs in connection with a federal election campaign. The telephones involved in this matter were existing business telephones that had been installed in 1968, approximately 16 years ago, when Local 512 began occupying its office facility. Under these circumstances we submit that this matter should be dropped as against Local 512.

Sincerely,

Kathy L. Krieger

Kathy L. Krieger
Counsel for Local Union 512

KLK/mkd

3504018

HY L. KRIEGER
ANT GENERAL COUNSEL
. OF C. AND J. OF A.
NSTITUTION AVE., N.W.
NGTON, D. C. 20001

50401817

WASHINGTON, DC 200
PM
20 OCT
1984

USA 20c

Charles N. Steele, General Counsel
Federal Election Commission
Washington, D.C. 20463

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84 OCT 30 A8:20

GCC# 5388

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84 OCT 29 P4:04

LAW OFFICES

SHERMAN, DUNN, COHEN, LEIFER & COUNTS, P. C.

1125 FIFTEENTH STREET, N. W.
SUITE 800
WASHINGTON, D. C. 20005

AREA CODE 202
785-9300

LOUIS SHERMAN (RET.)
THOMAS X. DUNN (RET.)
LAURENCE J. COHEN
ELIHU I. LEIFER
JOHN P. COUNTS
TERRY R. YELLIG
RICHARD M. RESNICK
ROBERT D. KURNICK

VICTORIA L. BOR
D. WILLIAM HEINE, JR.*
MARY E. VOGEL

*MEMBER OF CALIFORNIA BAR

October 29, 1984

White

Lee Ann Elliott
Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: IBEW Local 252
MUR 1641

Dear Ms. Elliott:

This letter constitutes the response of International Brotherhood of Electrical Workers Local Union 252 to your letter of September 26, 1984, stating that the Commission has determined that there is reason to believe that IBEW Local 252 violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. As indicated in the enclosed Statement of Designation of Counsel, this office represents IBEW Local 252 for purposes of this MUR.

Your letter states that the "Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities." The Commission appears to have assumed that IBEW Local 252 arranged or paid for the installation of telephones for use by the Mondale for President Committee. That assumption is incorrect. Between December 1983 and February 1984 the Mondale for President Committee used two of IBEW Local 252's telephones pursuant to a lease agreement. These telephones were installed in approximately 1968. No new telephones were installed by Local 252 and no installation or deposit costs were incurred.

8 0 4 4 0 1 8 1 3 5

Accordingly IBEW Local 252 did not commit a violation of 2 U.S.C. § 441b(a), and, therefore, no action should be taken against that labor organization.

Sincerely,

SHERMAN, DUNN, COHEN, LEIFER & COUNTS, P.C.

By Robert D Kurnick
Robert D. Kurnick

RDK:llp

cc: Rick Diegel
Fred Viegel

8504054181 2

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Cohen, Leifer and Counts

ADDRESS: 1125 15th Street, N.W.
Suite 801
Washington, D.C. 20005

TELEPHONE: (202) 728-6211

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

10-2-84
Date

John C. Briston
Signature
Business Manager 252

RESPONDENT'S NAME: John C. Briston, Business Manager

ADDRESS: IBEW Local 252
5300 W. Michigan Avenue
Ypsilanti, Michigan 48197

HOME PHONE:

BUSINESS PHONE: (313) 434-0338

8504041820

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SECRETARY
84 OCT 29 P4:05

LAW OFFICES
SHERMAN, DUNN, COHEN, LEIFER & COUNTS, P.C.
1125 FIFTEENTH STREET, N.W.
SUITE 801
WASHINGTON, D.C. 20005

AREA CODE 202
785-9300

LOUIS SHERMAN (RET.)
THOMAS X. DUNN (RET.)
LAURENCE J. COHEN
ELIHU I. LEIFER
JOHN P. COUNTS
TERRY R. YELLIG
RICHARD M. RESNICK
ROBERT D. KURNICK

VICTORIA L. BOR
D. WILLIAM HEINE, JR.*
MARY E. VOGEL

*MEMBER OF CALIFORNIA BAR

October 29, 1984

Lee Ann Elliott
Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: IBEW Local 2320
MUR 1641

Dear Ms. Elliott:

This letter constitutes the response of International Brotherhood of Electrical Workers Local Union 2320 to your letter of September 26, 1984, stating that the Commission has determined that there is reason to believe that IBEW Local 2320 has violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. As indicated in the enclosed Statement of Designation of Counsel, this office represents IBEW Local 2320 for purposes of this MUR.

Your letter states that the "Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities." The Commission appears to have assumed that IBEW Local 2320 arranged or paid for the installation of telephones for use by the Mondale for President Committee. That assumption is incorrect. IBEW Local 2320 has six telephones and four telephone lines. In November and December 1983 IBEW Local 2320 permitted the Mondale for President Committee to use four of its six pre-existing telephones pursuant to a lease agreement between the Committee and the Local. The business manager of Local 2320 does not specifically recall when these telephones were installed, but they have been in place for at least four years. No new telephones were installed by Local 2320 and no installation or deposit costs were incurred.

8 5 0 5 4 1 8 2 1

Accordingly IBEW Local 2320 did not commit a violation of 2 U.S.C. § 441b(a) and, therefore, no action should be taken against that labor organization.

Sincerely,

SHERMAN, DUNN, COHEN, LEIFER & COUNTS, P.C.

By Robert D Kurnick
Robert D. Kurnick

RDK:llp

cc: Rick Diegel
Martin Fitzpatrick

8504182 2

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Cohen, Leifer, Counts

ADDRESS: 1125 Fifteenth Street, N.W.
Washington, D.C.
20005

TELEPHONE: 1-202-728-6211

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

10/9/84
Date

Martin J. Fitzpatrick
Signature

RESPONDENT'S NAME: Martin J. Fitzpatrick, Business Manager

ADDRESS: Local 2320, IBEW
46 Third Street
Manchester, N.H. 03102

HOME PHONE: 1-603-622-1559

BUSINESS PHONE: 1-603-669-8657

8504054182 3

LAW OFFICES

SHERMAN, DUNN, COHEN, LEIFER & COUNTS, P.C.

1125 FIFTEENTH STREET, N.W.

SUITE 801

WASHINGTON, D.C. 20005

AREA CODE 202
785-9300

LOUIS SHERMAN (RET.)
THOMAS X. DUNN (RET.)
LAURENCE J. COHEN
ELIHU I. LEIFER
JOHN P. COUNTS
TERRY R. YELLIG
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ROBERT D. KURNICK

VICTORIA L. BOR
D. WILLIAM HEINE, JR.*
MARY E. VOGEL

*MEMBER OF CALIFORNIA BAR

RECEIVED
OFFICE OF THE FEC
SECRETARY

84 OCT 29 P4:05

October 29, 1984

Lee Ann Elliott
Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: IBEW Local 292
MUR 1641

Dear Ms. Elliott:

This letter constitutes the response of International Brotherhood of Electrical Workers Local Union 292 to your letter of September 26, 1984, stating that the Commission has determined that there is reason to believe that IBEW Local 292 violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. As indicated in the enclosed Statement of Designation of Counsel, this office represents IBEW Local 292 for purposes of this MUR.

Your letter states that the "Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities." The Commission appears to have assumed that IBEW Local 292 arranged or paid for the installation of telephones for use by the Mondale for President Committee. That assumption is incorrect. The business manager of IBEW Local 292 previously submitted to the Commmission responses to interrogatories served on the Local by the Commission. As the business manager of Local 292 stated in those responses, the Mondale for President Committee used the Local's existing telephones in January and February 1984 pursuant to a lease agreement. The telephones used were installed in 1982. No new telephones were installed by Local 292 and no installation or deposit costs were incurred.

8 3 0 4 7 1 8 3 4

Accordingly IBEW Local 292 did not commit a violation of 2 U.S.C. § 441b(a), and, therefore, no action should be taken against that labor organization.

Sincerely,

SHERMAN, DUNN, COHEN, LEIFER & COUNTS, P.C.

By Robert D Kurnick
Robert D. Kurnick

RDK:llp

cc: Rick Diegel
Owen Schleisman

8504182 5

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Cohen, Leifer and Counts

ADDRESS: 1125 15th Street N.W.
Washington, D.C. 20005

TELEPHONE: (202) 728-6211

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

10-5-84
Date

Owen Schleisman
Signature

RESPONDENT'S NAME: Owen Schleisman, Business Manager

ADDRESS: IBEW, Local 292
312 Central Avenue
Minneapolis, MN 55414

HOME PHONE:

BUSINESS PHONE: (612) 379-1292

8504054182 6

LAW OFFICES
SHERMAN, DUNN, COHEN, LEIFER & COUNTS, P.C.
1125 FIFTEENTH STREET, N.W.
SUITE 801
WASHINGTON, D. C. 20005

LOUIS SHERMAN (RET.)
THOMAS X. DUNN (RET.)
LAURENCE J. COHEN
ELIHU I. LEIFER
JOHN P. COUNTS
TERRY R. YELLIG
RICHARD M. RESNICK
ROBERT D. KURNICK

VICTORIA L. BOR
D. WILLIAM HEINE, JR.*
MARY E. VOGEL

*MEMBER OF CALIFORNIA BAR

AREA CODE 202
785-9300

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OFFICE OF THE FEC
SECRETARY

84 OCT 29 P4:04

October 29, 1984

Lee Ann Elliott
Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: IBEW Local 405
MUR 1641

Dear Ms. Elliott:

This letter constitutes the response of International Brotherhood of Electrical Workers Local Union 405 to your letter of September 26, 1984, stating that the Federal Election Commission has determined that there is reason to believe that IBEW Local 405 violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. */ As indicated in the enclosed Statement of Designation of Counsel, this office represents IBEW Local 405 for purposes of this MUR.

Your letter states that the "Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities." The Commission appears to have assumed that IBEW Local 405 arranged or paid for the installation of telephones for use by the Mondale for President Committee. That assumption is incorrect.

IBEW Local 405 owns a building in Cedar Rapids, Iowa. Local 405 rents office space in that building to several different labor organizations. In approximately December 1983 and January 1984 one of IBEW Local 405's tenants utilized rented office space to establish a telephone bank. IBEW Local 405 does

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*/ Your letter was addressed to James W. Vick, who is a member, but not an officer or representative of IBEW Local 405.

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not know whether those telephones were made available to the Mondale for President Committee or whether any installation or deposit costs were incurred by that tenant. At one point AT&T incorrectly billed IBEW Local 405 for the telephones used by that tenant. That bill, however, did not include any charges for installation or deposits. In any event, IBEW Local 405 did not have any contacts or any contractual relationship with the Mondale for President Committee regarding the use of telephones. IBEW Local 405 did not make its own telephones or office space available to the Mondale for President Committee. Local 405 had no telephones installed and obviously incurred no installation or deposit costs.

Accordingly IBEW Local 405 did not violate 2 U.S.C. § 441b(a), and, therefore, no action should be taken against that labor organization.

Sincerely,

SHERMAN, DUNN, COHEN, LEIFER & COUNTS, P.C.

By Robert D Kurnick
Robert D. Kurnick

RDK:llp

cc: Rick Diegel
Clair L. Scott

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STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Cohen, Leifer & Counts

ADDRESS: 1125 15th Street, NW
Washington, D.C. 20005

TELEPHONE: (202) 785-9300

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

October 4, 1984
Date

Signature

RESPONDENT'S NAME: Clair L. Scott

ADDRESS: 1211 Wiley Blvd., SW
Cedar Rapids, IA 52404

HOME PHONE: (319) 396-7491

BUSINESS PHONE: (319) 396-8241

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SHERMAN, DUNN, COHEN
LEIFER & COUNTS, P.C.
1125 15TH STREET, N.W., SUITE 801
WASHINGTON, D.C. 20005

To Lee Ann Elliott
Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

BY HAND

GCC # 5378

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

EXECUTIVE COUNCIL

LANE KIRKLAND PRESIDENT THOMAS R. DONAHUE SECRETARY-TREASURER

John H. Lyons, Murray H. Finley, Sol C. Chaikin, Charles H. Pillard, Alvin E. Heaps, John DeConcini, Joyce D. Miller, James E. Hatfield, Vincent R. Sombrotto, Marvin J. Boede, Owen Bieber, Thomas W. Gleason, Albert Shanker, Edward T. Hanley, J. C. Turner, William W. Winpisinger, Wayne E. Glenn, John J. Sweeney, Barbara Hutchinson, Gerald W. McEntee, Patrick J. Campbell, John T. Joyce, Frederick O'Neal, Glenn E. Watts, Angelo Fosco, Kenneth T. Blaylock, William H. Wynn, Robert F. Goss, Frank Drozak, Richard I. Kilroy, William H. Bywater, Kenneth J. Brown, Lynn R. Williams

October 29, 1984 White

84 OCT 29 P4:10

GENERAL COUNSEL

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

Re: FEC MUR 1641

Dear Mr. Steele:

This letter constitutes the response of Trowel Trades Local 14, International Union of Bricklayers and Allied Craftsmen (hereinafter "respondent") to the Commission's letter dated September 26, 1984 stating that the Commission has determined that there is reason to believe that respondent has violated §441b(a) of the Federal Election Campaign Act of 1971, as amended, by "incur[ring] the total installation and deposit costs of telephones used by the Mondale For President Committee at the labor organization's facilities".

For the reasons set forth below, the Commission should rescind its reason to believe determination in the above-referenced matter and should take no further action against respondent.

1. The instant matter was generated by a complaint as the Commission has acknowledged in its October 17, 1984 letter to respondent enclosing a copy of that complaint. The Commission's regulations provide with regard to "complaint-generated" compliance matters that respondents "shall be afforded an opportunity to demonstrate that no action should be taken on the basis of the complaint by submitting ... a letter or memorandum setting forth reasons why the Commission should take no action. " 11 C.F.R. §111.6. The regulations further provide that the Commission "shall not take any action or make any finding against a respondent other than an action dismissing the complaint unless it has considered such response or unless no response has been served upon the Commission within the [specified time period]." Id.

By finding reason to believe against respondent without first affording respondent an opportunity to demonstrate why no such action should be taken the Commission has violated §437g(a) of the Act and §111.6 of its regulations. The Commission's reason to believe determination is therefore invalid and must be rescinded.

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2. The Commission's September 26, 1984 letter states that the Commission's reason to believe determination is "based upon the General Counsel's analysis that [Trowel Trades Local 14] incurred the total installation and deposit costs of telephones used by the Mondale for President Committee ...". That statement is wrong for the following reason: the two telephones belonging to Trowel Trades Local 14 that were leased to the Mondale For President Committee are business phones installed in 1968 and 1982 respectively and used continuously by respondent thereafter to and including the date of this response.

Even if the Commission's regulations or advisory opinions required that a pro-rata share of telephone deposit and installation costs be paid by a political committee using a labor organization's facilities, which they do not, any installation or deposit costs connected with respondent's telephones have long since been amortized by respondent's business use of the telephones. Since there are no calculable deposit or installation costs for the telephones which respondent leased to the Mondale For President Committee, respondent's failure to include those costs in the amount which the Local billed to the campaign for phone usage and space did not violate 2 U.S.C. §441b(a).*/

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for respondent

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*/ Respondent's showing above that there is no reason to believe that respondent has violated 2 U.S.C. §441b(a) demonstrates also that the Commission is without authority to propound written interrogatories in this matter. See 11 C.F.R. §111.10.

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STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Margaret E. McCormick

ADDRESS: 815 16th Street, N.W.
Room 804
Washington, D. C. 20006

TELEPHONE: (202) 637-5397 Office
(301) 656-9612 Home

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

October 1, 1984
Date

Sam Palazzolo
Signature

RESPONDENT'S NAME: Sam Palazzolo

ADDRESS: 5300 W. Michigan Avenue
Ypsilanti, MI 48197

HOME PHONE: (517) 546-4943

BUSINESS PHONE: (313) 434-2677

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RECEIVED
FEC
SECRETARY

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA - UAW

OWEN F. BIEBER, PRESIDENT

RAYMOND E. MAJERUS, SECRETARY-TREASURER

VICE PRESIDENTS

BILL CASSTEVENS • DONALD F. EPHLIN • ODESSA KOMER • MARC STEPP • ROBERT WHITE • STEPHEN P. YOKICH

IN REPLY REFER TO
1757 N STREET, N.W.
WASHINGTON, D.C. 20036
TELEPHONE: (202) 828-8500

October 29, 1984

Lee Ann Elliott
Chairman
Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20463

Re: MUR 1641
(Muskegon County UAW CAP Council)

Dear Chairman Elliott:

On October 1, 1984, the Muskegon County UAW CAP Council ("CAP Council") received a letter from the Federal Election Commission, advising it that the Commission had determined that there is reason to believe that the CAP Council violated section 441b(a) of the Federal Election Campaign Act, 2 U.S.C. § 441b(a), "based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities." The CAP Council also received a series of interrogatories from the Commission. On October 19, 1984, the CAP Council subsequently received a statement of the legal and factual basis for the Commission's determination.

This is to advise you that I will be representing the CAP Council in the above referenced case. Enclosed is the signed statement from the CAP Council designating me as their counsel. I would appreciate it if you would direct all future communications concerning this case to my attention.

Also enclosed is the response of the CAP Council to the interrogatories propounded by the Commission. As indicated in the response to these interrogatories, the CAP Council did enter into an "Agreement for the Use of Labor Organization Facilities and Equipment" with the Mondale for President Committee, Inc. ("MPC"), in which it agreed to allow the MPC to rent the use of ten telephones. However, the MPC never actually used more than four of the telephones at any time.

The telephones were installed by the CAP Council on January 31, 1984. The telephones were installed for the purpose of enabling the CAP Council to conduct a program of internal communications directed at members of the CAP Council and their families in connection with the 1984 elections. The telephones were used by the CAP Council during the months of February and March, 1984, and again in September and October, 1984, in connection with this internal program. The telephones were also installed by the CAP Council in order to enable it to conduct similar internal

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communications programs in connection with future election campaigns and other activities.

The CAP Council did not discuss the installation or use of the telephones with the MPC prior to the installation of the telephones. After the telephones had been installed, the MPC approached the CAP Council about renting the use of the telephones. The MPC subsequently actually used the telephones from March 12 to March 16, 1984. The MPC never used more than four of the telephones at any time, and wound up using the telephones for a total of only 50 telephone hours.

The cost of installing all ten telephones (including tax) was $503.36. These installation costs included $251.42 in one-time-only charges for permanently installing the wiring and jacks. The charges for these permanent capital improvements will not have to be incurred again by the CAP Council in connection with future uses of the telephones. The installation costs also included $251.94 in charges for connecting the telephone lines. The charges for this service represent a recurring cost every time the telephone lines are connected. The CAP Council did not have to pay any deposits in connection with the telephones.

The CAP Council has billed the MPC for the normal and usual rental charge for the use of the telephones. This included a pro-rata share of the regular monthly service charges, any actual charges incurred by the MPC for long distance calls, and a pro-rata share of the rent for the office space, tables, chairs and utilities where the telephones were located. The CAP Council did not bill the MPC for any portion of the telephone installation costs.

The following statement is submitted on behalf of the CAP Council in response to the Commission's "reason to believe" determination. For the following reasons, the CAP Council submits that it has not violated section 441b(a) of the FECA. Accordingly, there is no legal or factual basis for taking any further action against the CAP Council in connection with this case.

First, the CAP Council submits that, as a matter of law, telephone installation and deposit costs do not have to be included in calculating the normal and usual rental charge for the use of corporate and union telephones. Section 114.9(d) of the Commission's regulations, 11 C.F.R. § 114.9(d), provides that:

> Persons . . . who make any use of corporate or labor organization facilities, such as by using telephones or typewriters or borrowing office furniture for activity in connection with a federal election are required to reimburse the corporation or labor organization within a commerically reasonable time, in the amount of the normal and usual rental charge . . . for the use of the facilities.

Section 100.7(a)(1)(iii)(B) of the Commission's regulations in turn defines the "normal and usual rental charge" as meaning "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution." 11 C.F.R. § 100.7(a)(1)(iii)(B).

These regulations make it clear that any candidate or political committee that uses corporate or labor organization telephones must reimburse the corporation or labor organization for the normal and usual rental charge — that is to say, the fair market value — for the use of the telephones. However, these regulations do not provide any

further guidance as to how the "normal and usual rental charge" or "fair market value" should be calculated. Specifically, there is no indication in the regulations that any portion of the installation or deposit costs associated with telephones must be included in this calculation, and reimbursed by the candidate or political committee.

In various advisory opinions and compliance actions, the Commission has consistently reaffirmed the basic principle that any candidate or political committee must reimburse a corporation or labor organization for the normal and usual rental charge for the use of comporate or union telephones. But again, the Commission has never given any indication that any portion of the installation or deposit costs associated with the telephones would have to be reimbursed by the candidate or political committee.

In Opinion of Council 76-30, the General Council specifically ruled that if a candidate or political committee used corporate telephones during nonbusiness hours, the candidate or political committee would have to reimburse the corporation for the "normal and usual charge for renting telephones in the normal market." Significantly, however, the General Counsel went on to state that "Any method that would reasonably compute the rental value of these items would be acceptable to the Commission". (emphasis supplied) There was no indication in this opinion that any installation or deposit costs associated with the telephones would have to be reimbursed by the candidate or political committee.

Similarly, in Advisory Opinion 1978-34, the Commission ruled that a candidate would have to reimburse a corporation for the normal and usual rental charge for the use of certain corporate telephones, rather than simply paying a fixed charge per call. Again, however, the Commission did not refer at all to any installation or deposit costs.

In several compliance actions involving the Carter-Mondale Presidential Committee [MUR 1314(80); MUR 1369(81)], the Commission took the position that the Carter campaign had to pay the normal and usual rental charge for the use of various corporate and union facilities, including telephones. But the Commission did not even mention the installation or deposit costs associated with the telephones, let alone insist that the Carter campaign reimburse these costs. And in another compliance action involving the Reagan for President Committee [MUR 1349 (81)], the Commission concluded that the Reagan campaign had violated the FECA by paying corporations a daily charge for the use of certain telephone banks, rather than the usual and normal rental charge for the use of the telephones. Significantly, in requesting documentation concerning the value of renting the various facilities, the General Counsel only asked for records concerning "the monthly telephone service charge" and "any additional phone charges to the corporation for the cost of the phone calls made by committee volunteers". Again, there was no mention of any installation or deposit costs, or any suggestion that such costs would have to be included in calculating the normal and usual rental charge for the use of the telephones.

Thus, based on the Commission's regulations, advisory opinions and previous compliance actions, there is no basis for concluding that any portion of installation or deposit costs should be included in calculating the normal and usual rental charge for the use of corporate and union telephones, and thus reimbursed by a candidate or political committee. Indeed, the advisory opinions and compliance actions suggest that only the monthly service charge and any additional costs actually incurred by the corporation or labor union should be included, and that considerable latitude should be accorded to corporations and labor unions in making a reasonable calculation of the normal and usual rental charge for the use of their telephones.

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Any attempt by the Commission, in the context of the present compliance action, to formulate and apply a new rule regarding the manner in which the normal and usual rental charge for the use of corporate and union telephones should be calculated would be objectionable for a number of reasons. Section 437f(b) of the FECA specifically provides that the Commission may only propose a new rule or regulation pursuant to the procedures set forth in section 438(d), which provides for approval of any new rules and regulations by Congress. 2 U.S.C. §§ 437f(b) & 438 (d). This was intended to insure that persons would have prior notice of any changes in the rules and regulations governing political activity under the FECA. By taking the position in the present case that the CAP Council had to bill the MPC for a porton of the telephone deposit and installation costs, the Commission in effect is attempting to adopt a new interpretation of the term "normal and usual rental charge", and thus is trying to modify sections 114.9(d) and 100.7(a)(1)(iii)(B) of its regulations. This attempt to use a compliance action to circumvent the procedures set forth in sections 437f(b) and 438(d) of the FECA is clearly improper.

In addition, it is well established that the courts will not honor an agency's interpretation of its own regulations where that interpretation previously was not adequately articulated by the agency, or is inconsistent with earlier pronouncements by the agency. See e.g. Morton v. Ruiz, 415 U.S. 199, 237 (1974); Forbes Health Systems v. Harris, 661 F.2d 282, 286 (3d Cir. 1981); Marshall v. Anaconda Co., 596 F.2d 370, 376 (9th Cir. 1979); Usery v. Kennecott Copper Corp., 577 F.2d 1113 (10th Cir. 1977).

Furthermore, section 437f(c) of the FECA specifically provides that any person who has relied on and acted in good faith in accordance with the provisions of an advisory opinion shall not be subjected to any sanctions. 2 U.S.C. § 437f(c). Since the CAP Council certainly had good reason to believe, in light of the Commission's previous advisory opinions and compliance actions, that installation and deposit costs did not have to be included in calculating the normal and usual charge for the use of union telephones, the Commission cannot now impose any sanctions on the CAP Council for failing to bill the MPC for these costs.

Finally, because the Commission's regulations, advisory opinions and compliance actions do not contain any indication that any portion of telephone installation or deposit costs should be included in calculating the normal and usual rental charge for the use of corporate and union telephones, the Commission lacks subject matter jurisdiction over the present case. Cf. FEC v. Machinists Non-Partisan Political League, 655 F.2d 380 (D.C. Cir. 1981), cert. den. 454 U.S. 897 (1981).

Second, the facts and circumstances surrounding the installation and use of the CAP Council's telephones supports the conclusion that the CAP Council did not have to bill the MPC for any telephone installation costs. The telephones were installed by the CAP Council on January 31, 1984, well over a month before the telephones were used by the MPC beginning on March 12, 1984. The telephones were installed by the CAP Council for the purpose of conducting its own programs of internal communications directed at members of the CAP Council and their families. These programs were conducted by the CAP Council in February and March, 1984, and later in September and October, 1984 (and in fact are still being conducted by the CAP Council). The CAP Council also plans to use the telephones to conduct similar internal communications programs in the future.

The MPC did not discuss the use or installation of the telephones with the CAP Council prior to the installation of the telephones. After the telephones had been

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installed, the MPC approached the CAP Council about using the telephones, and entered into the "Agreement for the Use of Labor Organization Facilities and Equipment" with the CAP Council. However, the MPC actually only used the CAP Council's telephones from March 12, 1984 to March 16, 1984. The MPC never actually used more than four telephones at any time, and only used the telephones for a total of 50 telephone hours. This represented only 10% of the total time the telephones were used during the month of March.

Thus, there is simply no factual basis for attributing any installation costs to the MPC. The record clearly establishes that the telephones were installed by the CAP Council for its own purposes, not for the purpose of assisting the MPC. The record also establishes that the telephones were used almost exclusively by the CAP Council. The CAP Council has already used the telephones for four months in connection with its own internal communications programs, and it plans to use the telephones in connection with similar programs in the future. The MPC, on the other hand, only used the telephones during a single month, and then for only 10% of the total time the telephones were used during that month.

Even assuming arguendo that the CAP Council should have billed the MPC for a portion of the telephone installation costs, there still would not be any grounds for taking further action against the CAP Council in connection with the present case. At most, the portion of the installation costs which could even arguably be attributed to the MPC would be extremely small. As indicated in the CAP Council's response to the interrogatories propounded by the Commission, the installation of all ten telephones cost a total of $503.46. These installation costs included $251.42 in one-time-only charges for installing permanent wiring and jacks. Because the charges for these permanent capital improvements will not have to be incurred again in connection with future uses of the telephones, these costs would have to be amortized over the useful life of the wiring and jacks. The installation costs also included $251.94 in charges for connecting the telephone lines. Although the charges for this service must be incurred each time the telephones lines are connected, because the CAP Council has continued to use the telephones in connection with its own internal communciations program since the telephones were originally connected in January, 1984, these costs would also have to be amortized over a number of months. If the various installation costs described above are properly amortized using any reasonable formula, and if one takes into account the MPC's limited use of the telephones during the month of March, 1984 (which amounted to only 10% of the total time the telephones were used during that month), it becomes apparent that only a minuscule portion of the installation costs could possibly be attributed to the MPC. Accordingly, the CAP Council's alleged violation of section 441b(a) would, at most, represent a de minimus violation of the FECA. In view of the de minimus nature of the alleged violation, and the absence of any previous indication by the Commission in its regulations, advisory opinions and compliance actions that telephone installation costs should be included in calculating the normal and usual rental charge for the use of corporate and union telephones, the Commission certainly would not be warranted in taking any further action against the CAP Council in connection with this matter.

With respect to telephone deposit costs, the record shows that the CAP Council did not have to pay any deposits in connection with the telephones. Thus, there obviously was no reason to bill the MPC for any deposit costs.

For the foregoing reasons, the CAP Council submits that the Commission should find that the CAP Council did not violate section 441b(a) of the FECA, and should

therefore take no further action against the CAP Council in connection with the present case.

Sincerely,

Alan V. Reuther
Assistant General Counsel

AVR:njk
opeiu494

Enclosures

cc: Maura White, Esq.

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RESPONSE OF MUSKEGON COUNTY UAW CAP COUNCIL TO INTERROGATORIES IN MUR 1641

On October 1, 1984, the Muskegon County UAW CAP Council ("CAP Council") received interrogatories from the Commission in connection with MUR 1641. The following answers are submitted by the Chairman of the CAP Council, Douglas Smith, in response to those interrogatories.

1. The CAP Council, by and through its Chairman, Douglas Smith, entered into an "Agreement for the Use of Labor Organization Facilities and Equipment" with the Mondale for President Committee, Inc. ("MPC"), in which the CAP Council agreed to rent the use of ten telephones to the MPC. However, the MPC never actually used more than four of the CAP Council's telephones at any time.

2. a). The telephones were actually used by the MPC from March 12 to March 16, 1984.

   b). The telephones were located at 490 W. Western Ave., Muskegon, Michigan 49440.

   c). The telephones were only used by the MPC for a total of 50 telephone hours. This represented 10% of the total time the telephones were used during the month of March.

   d). The MPC never used more than four of the CAP Council's telephones at any time.

3. a). The telephones were installed by the CAP Council on January 31, 1984.

   b). The total cost of installing all ten telephones, (including tax) was $503.36. These installation costs included $251.42 in one-time-only charges for installing permanent wiring and jacks. The charges for this permanent capital improvement will not have to be incurred again by the CAP Council in connection with future uses of the telephones. The installation costs also included $251.94 in charges for connecting the telephone lines. The charges for this service represent a recurring cost every time the telephone lines are connected.

   c). The CAP Council installed the telephones for the purpose of conducting a program of internal communications directed at members of the CAP Council and their families in connection with the 1984 elections. The telephones were used by the CAP Council during the months of February and March 1984, and again in September and October 1984, in connection with this program. The telephones were also installed by the CAP Council in order to enable it to conduct similar

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internal communication programs in connection with future election campaigns and other activities.

d). The CAP Council did not discuss the use or installation of the telephones with the MPC prior to the installation of the telephones.

e). The CAP Council did not pay any deposits in connection with the telephones.

f). The CAP Council did not bill the MPC for any portion of the telephone installation costs.

I am the Chairman of the Muskegon County UAW CAP Council. The foregoing answers to the interrogatories propounded by the Commission were prepared with the assistance and advice of counsel for the CAP Council. I declare under penalty of perjury that I am authorized to sign these responses on behalf of the CAP Council, and that based on information and belief the foregoing responses are true and correct to the best of my knowledge.

Douglas Smith

Douglas Smith, Chairman
Muskegon County UAW CAP Council

State Missouri

County St. Louis

SUBSCRIBED and SWORN TO before me this 25 day of October, 1984.

Nancy Janette Azerolo

Notary Public

My Commission Expires On: 4-10-87

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STATEMENT OF DESIGNATION OF COUNSEL

MUR _____

NAME OF COUNSEL: Alan Reuther

ADDRESS: 1757 N Street, N.W.
Washington, D.C. 20036

TELEPHONE: _____

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

October 2, 1984
Date

Douglas D. Smith
Signature

RESPONDENT'S NAME: Douglas D. Smith

ADDRESS: 490 W. Western Avenue
Muskegon, MI 49440

HOME PHONE: (616) 733-0360

BUSINESS PHONE: (616) 722-7474

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From

UAW

1757 N Street, N.W. — Washington, D. C. 20036

for

Lee Ann Elliott
Chairman
Federal Election Commission
1325 K Street, N. W., 5th Floor
Washington, D. C. 20463

FIRST CLASS MAIL

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UFCW

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Legal Department
(202) 466-1520 / 1523

October 29, 1984

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GENERAL COUNSEL

Ms. Maura White
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1641

Dear Ms. White:

I am writing in response to the letter of General Counsel Charles Steele, dated October 17, 1984. I have been designated as counsel to respond for both the International Union and all of the local unions of the U.F.C.W. who we are aware of having been served with similar letters. You have already been sent the designations of counsel on behalf of the International Union and Local 1439. Enclosed are the designations for Locals 6, 31P, 47P, 71, 1161 and 1169.

We will attempt to respond to the allegations contained in the October 17 letter. However, it is our position that the propounding of written questions pursuant to 2 U.S.C. 437d(a)(1) in this case was improper on two grounds. First, that the propounding of such questions on a complaint generated matter is inappropriate and, second, that the basis for the asking of the questions is incorrect and that, therefore, there is no basis for asking the questions. With regard to the procedural grounds, Section 437g(a) of the Federal Election Campaign Act provides two different and distinct procedures for proceeding with investigations of any purported violations of the Act. Section 437g(a)(1) provides that within 5 days of the filing of a complaint by any person, the person alleged to have violated the Act in the complaint shall be notified of such fact by the Commission. Thereafter, before the Commission conducts any vote on the complaint, other than a vote to dismiss, the person so notified shall have the opportunity to demonstrate in writing, within 15 days after notification, that no action should be taken against any such person on the basis of the complaint. The regulation of the Commission, 11 C.F.R. 111.6, entitled "Opportunity to demonstrate that no action should be taken on complaint-generated matters (2 U.S.C. 437g(a)(1))," repeats the

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William H. Wynn
International
President

Anthony J. Lutty
International
Secretary-Treasurer

United Food & Commercial Workers
International Union, AFL-CIO & CLC
1775 K Street, N.W.
Washington, D.C. 20006
(202) 223-3111

proposition that a respondent shall be afforded an opportunity to demonstrate that no action should be taken on the basis of a complaint by submitting a letter or memorandum setting forth reasons why the Commission should take no action. Moreover, the regulation provides that the Commission shall not take any action, or make any finding against a respondent other than action dismissing the complaint, unless it has considered such response. The following section of the regulations, 11 C.F.R. 111.7, provides that only after the expiration of the response period, or the receipt of the response, may the General Counsel recommend to the Commission whether or not it should find "reason to believe" that a violation has been committed or is about to be committed.

The second procedure provided the Commission for proceeding with an investigation of any purported violation of the Act is set forth in 2 U.S.C. 437g(a)(2). Under that section the Commission may make an investigation of alleged violation if the Commission, upon receiving a complaint under Section 437g(a)(1) (which presumably incorporates the ability to respond as provided for in that section), or on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities, determines by an affirmative vote of 4 of its members that it has "reason to believe" that a person has committed or is about to commit, a violation of the Act. The Commission's regulation, 11 C.F.R. 111.8, entitled "Internally generated matters; referrals (2 U.S.C. 437g(a)(2))," again repeats that the General Counsel may recommend that the Commission find "reason to believe" that a person has committed, or is about to commit, a violation on the basis of information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities, or on the basis of a referral from an agency of the United States or any state.

As shown above, the statute and regulations thus provide for a chance for a respondent to provide information to the Commission, prior to any vote being taken on whether there is "reason to believe" that a violation has occurred, in a complaint generated matter. The October 17 letter from the Commission makes clear the obvious, that this is a complaint generated matter. Thus the letter states "(a)lthough the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information" (emphasis added). In this instance the Commission has proceeded to vote that there was ""reason to believe"" a violation has occurred without asking for any response from the respondents. In this manner the Commission would seem to be circumventing the intent of the statute and the regulations with regard to complaint generated matters and the right of accused persons to respond.

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Nor is this an instance where information has been ascertained in the normal course of carrying out its "supervisory responsibilities" as that term is generally used. Section 438 of the Act, in particular, sets forth the Commission's duties. The Commission's actions in this matter are not based on any information gathered in the "normal course of carrying out its supervisory responsibilities," such as audits or the internal review of reports, and its questions are not being propounded in furtherance of such supervisory responsibility. As the District of Columbia Court of Appeals stated in a subpoena enforcement case, "(p)lainly, mere 'official curiosity' will not suffice as the basis for FEC investigations, as it might in others." Federal Election Commission v. Machinists Non-Partisan Political League, 655 F.2d 380, 388 (C.A. D.C., 1981).

What is particularly disturbing about the approach taken by the Commission in this matter is that there seems to be a pattern with regard to the manner in which the Commission is approaching labor organizations. Thus, in MUR 1704 a ""reason to believe"" letter was issued alleging that the United Food and Commercial Workers Active Ballot Club had made contributions to the Mondale campaign which, in the aggregate, were excessive. As we pointed out in our September 5, 1984, response to that letter, the Union was being informed that the Commission had determined that there was "reason to believe" that the UFCW Active Ballot Club had violated the Federal Election Campaign Act, while at the same time it was given absolutely no facts with regard to what the alleged violations were. We were apparently being asked to guess what the Commission considered to be violations and then conciliate on the basis of our assumptions. In the instant case the Commission appears to have been so anxious to issue a "reason to believe" letter, that it did not follow the statute and regulations with regard to complaint generated matters and chose not to ask for a response which would have been the normal procedure.

The second reason for not answering, at this time, the questions propounded by Commission is that the premise underlying the ""reason to believe"" finding is incorrect, so that there is no basis for the questions being asked. The "General Counsel's Factual and Legal Analysis," which was sent to each of the local unions and the International Union, states, "(t)he evidence in hand indicates that the instant labor organization permitted its telephone to be utilized by MPC, and the MPC failed to pay the labor organization for any portions of the telephone's deposit and installation costs." To the best of our knowledge, this "evidence" was not gathered through any response from the labor

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organizations, nor any reports of audits of the labor organizations.

Turning to the specifics, there are two different situations involved. In many instances no new telephones were installed. The only phones used in these cases were the normal, pre-existing telephones which already served the business purposes of the union in the union offices. In those instances there clearly is no installation or deposit fees which could have been charged. With regard to new telephones which were installed on a temporary basis, in all cases, except one, the telephone companies did not charge any deposit fees, apparently choosing to rely on the already proven credit trustworthiness of the unions. We assumed this to be the situation in all cases. In one instance, however, this was not the case.[1] In cases where new telephones were installed the union, while in disagreement with the Commission's position that it was required to do so, has, in fact, billed the Mondale campaign for a portion of the installation costs for new telephones. In several cases the campaign has already repaid the union for those installation charges.

It is perhaps necessary at this point to point out that we disagree with the "General Counsel's Factual and Legal Analysis." There is no dispute that under the statute and the Commission's regulations persons other than officials, members and employees of a labor organization who make use of the labor organization's facilities for activity in connection with a federal election are required to reimburse the labor organization in the amount of the normal and usual rental fee. That this was done appears not to be in dispute since there are no allegations contained in the Commission's letter with regard to charges which were made to the Mondale campaign for the use of telephones and telephone banks which were also used by the unions to communicate with their members. Being unable to attack the use of the telephones and phone banks directly the Commission is now apparently attempting to back into finding a violation by arguing that labor organizations are obligated to charge a portion of the telephone deposit and installation costs to the Mondale campaign. There is nothing in the Commission's regulations which would support the requirement that there be such a charge. Moreover, strongly arguing against such a charge is the fact that permissible uses were made of the telephones by the unions, for

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[1]In that one instance the deposit has been returned to the local union by the telephone company, along with the interest which it earned.

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their own purposes, so that any installation and deposit costs would have been incurred by the unions even if the Mondale campaign had not also used the phones.

Please let me know if you have additional questions.

Sincerely yours,

Edward P. Wendel

Edward P. Wendel
Assistant General Counsel
United Food & Commercial Workers
International Union

Enclosures

cc: Abbas
Chaplin
Fortune
Graham
Harrigan
Huntsman
Johnson
Martin
Olsen

EPW:sgg

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STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Edward P. Wendel
Assistant General Counsel

ADDRESS: United Food & Commercial Workers International Union
1775 K Street, N.W., Suite 900
Washington, D.C. 20036

TELEPHONE: 202-466-1522

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

10-2-84
Date

Wayne Huntsman
Richard V. Johnson
Signature

RESPONDENT'S NAME: Wayne Huntsman / Richard V. Johnson

ADDRESS: RR1 Box 53 / R.R. # 2 Box 40
Jefferson S Dak 57038 / Jefferson, So. Dak. 57038

HOME PHONE: 605-966-5472 / 605-966-5862

BUSINESS PHONE: 712-252-2259 / 605-966-5862

8504054184 9

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Edward P. Wendel
Assistant General Counsel

ADDRESS: United Food & Commercial Workers International Union
1775 K Street, N.W., Suite 900
Washington, D.C. 20036

TELEPHONE: 202-466-1522

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

October 24, 1984
Date

Derby L Olsen
Signature

RESPONDENT'S NAME: UFCW, Local 6

ADDRESS: 404 E. Main St.
Albert Lea, Mn. 56007

HOME PHONE: 507 373 9662

BUSINESS PHONE: 507 373 0649

8504054185 0

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Edward P. Wendel
Assistant General Counsel

ADDRESS: United Food & Commercial Workers International Union
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Washington, D.C. 20036

TELEPHONE: 202-466-1522

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

10/24/84
Date

Paul E. Fortune
Signature

RESPONDENT'S NAME: Paul E. Fortune

ADDRESS: 3331 10th Avenue North
FortDodge, Iowa 50501

HOME PHONE: 515 576 7028

BUSINESS PHONE: 515 573 3321

3504185 1

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Edward P. Wendel
Assistant General Counsel

ADDRESS: United Food & Commercial Workers International Union
1775 K Street, N.W., Suite 900
Washington, D.C. 20036

TELEPHONE: 202-466-1522

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OCT 25 1984
ANS.

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

10-24-84
Date

Max V. Graham
Signature

RESPONDENT'S NAME: Max V Graham

ADDRESS: 12508 Martha St
Omaha, Ne 68144

HOME PHONE: 402-333-3597

BUSINESS PHONE: 402-731-6268

8504054185 2

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Edward P. Wendel
Assistant General Counsel

ADDRESS: United Food & Commercial Workers International Union
1775 K Street, N.W., Suite 900
Washington, D.C. 20036

TELEPHONE: 202-466-1522

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

October 23, 1984
Date

Henry L. Martin B.A.
Signature

RESPONDENT'S NAME: Henry L. Martin

ADDRESS: 1747 Rust Road
Worthington, MN 56187

HOME PHONE: 507-376-5769

BUSINESS PHONE: 507-376-4234

8504054118853

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Edward P. Wendel
Assistant General Counsel

ADDRESS: United Food & Commercial Workers International Union
1775 K Street, N.W., Suite 900
Washington, D.C. 20036

TELEPHONE: 202-466-1522

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

10/24/84
Date

Bessie M. Chaplin
Signature
Fin Sec Local 1169-P

RESPONDENT'S NAME: Bessie CHAPLIN

ADDRESS: Box 373
Hubbard, Iowa 50122

HOME PHONE: 515-864-2281

BUSINESS PHONE: 515-648-9757 11 o'clock To 11:30 AM

8504054185 4

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Edward P. Wendel
Assistant General Counsel

ADDRESS: United Food & Commercial Workers International Union
1775 K Street, N.W., Suite 900
Washington, D.C. 20036

TELEPHONE: 202-466-1522

RECEIVED
FEDERAL ELECTION COMMISSION
GENERAL COUNSEL
84 OCT 30 P2:27

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

10/25/84
Date

Jack K Dorman
Signature

RESPONDENT'S NAME: Jack K. Dorman

ADDRESS: Route #1
Dayton, Iowa 50530

HOME PHONE: 547 2487

BUSINESS PHONE: none

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OCT 29 1984
PAC-POLITICAL
AFFAIRS DEC

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Edward P. Wendel
Assistant General Counsel

ADDRESS: United Food & Commercial Workers International Union
1775 K Street, N.W., Suite 900
Washington, D.C. 20036

TELEPHONE: 202-466-1522

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

10/24/84
Date

Ken Abbas
Signature

RESPONDENT'S NAME: KEN ABBAS

ADDRESS: 817 FREMONT ST
IOWA FALLS, IOWA 50126

HOME PHONE: 515-648-9425

BUSINESS PHONE: 515-648-9757 11:00AM to 11:30AM

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FROM

UNITED FOOD & COMMERCIAL WORKERS INTERNATIONAL UNION

1775 K STREET, N.W.
WASHINGTON, D.C. 20006

RETURN POSTAGE GUARANTEED

FOR

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

GCC#5379

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

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White.

84 OCT 29 P4:10

GENERAL COUNSEL

October 29, 1984

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

Re: FEC MUR 1641

Dear Mr. Steele:

This letter constitutes the response of the Wisconsin State AFL-CIO (hereinafter "respondent") to the Federal Election Commission's letter dated September 26, 1984 stating that the Commission has determined that there is reason to believe that respondent violated §441b(a) of the Federal Election Campaign Act of 1971, as amended ("the Act") by "incur[ring] the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities." The Wisconsin AFL-CIO submits, for the two reasons that follow, that the Commission should not have found reason to believe that respondent in this case violated the Act.

1. The instant matter was generated by a complaint as the Commission has acknowledged in its October 17, 1984 letter to respondent enclosing a copy of that complaint. The Commission's regulations provide with regard to "complaint generated" compliance matters that respondents "shall be afforded an opportunity to demonstrate that no action should be taken on the basis of a complaint by submitting... a letter or memorandum setting forth reasons why the Commission should take no action." 11 C.F.R. §111.6. The regulations further provide that the Commission "shall not take any action or make any finding against a respondent other than action dismissing the complaint unless it has considered such response or unless no such response has been served upon the Commission within the [specified time period]" Id.

By finding reason to believe against respondent without first affording respondent an opportunity to demonstrate why no such action should be taken, the Commission has violated §437g(a) of the Act and §111.6 of its regulations and its reason to believe determination is therefore invalid and must be rescinded.

2. The Commission's September 26, 1984 letter states that the Commission's reason to believe determination "was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities."

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That statement is wrong in two respects. First, the Wisconsin State AFL-CIO leased telephones to the Mondale For President Committee for the period from March 10 through April 12 in two locations, Green Bay, Wisconsin and Milwaukee, Wisconsin. No deposit costs were incurred for the telephones at either location.

Second, the Wisconsin AFL-CIO has billed the Mondale For President Committee for a pro-rata share of the costs of the telephones at both locations based on the Committee's use of the phones. Although not required to do so by the Act or the Commission's regulations, the Wisconsin AFL-CIO elected to include a pro-rata share of the installation charges for the phones in the costs billed to the Mondale For President Committee.

In light of the fact that the Wisconsin State AFL-CIO incurred no deposit costs for the telephones leased to the Mondale For President Committee and has already billed the Committee for a pro-rata share of the installation costs for those phones, the Commission should rescind its reason to believe determination in this matter and should take no further action against respondent.

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for Respondent

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*/ The showing above that there is no reason to believe that respondent has violated the Act demonstrates also that the Commission is without authority to propound written interrogatories in this matter. See 11 C.F.R. §111.10.

8504041859

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: MARGARET E. McCORMICK

ADDRESS: AFL-CIO LEGAL DEPT.
815 16TH ST., N.W.
Room 804
~~Washington D.C. 20006~~

TELEPHONE: (o) 637-5397
(h) 656-9612

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

OCT 1, 1984
Date

John W. Ahmuty
Signature

RESPONDENT'S NAME: Wisconsin State AFL-CIO

ADDRESS: 6333 W. Bluemound Road
Milwaukee, Wisconsin 53213

~~HOME PHONE:~~

BUSINESS PHONE: (414) 771-0700

8504054850

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84 OCT 29 A8:35

LAW OFFICES

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(1902-1973)
PATRICK C. O'DONOGHUE
(1930-1979)
DONALD J. CAPUANO
JAMES R. O'CONNELL *
ROBERT MATISOFF **
JOYCE A. MADER †
SALLY M. ARMSTRONG
BRIAN A. POWERS
JOHN L. BOHMAN
PETER J. BIERSTEKER
JOSEPH P. BOYLE ‡
FRANCIS J. MARTORANA

* D.C., MD. & VA.
** D.C. & VA.
† D.C. & PA.
‡ MD. & PA.

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WASHINGTON, D. C. 20016
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MARYLAND OFFICE
9 NORTH ADAMS STREET
ROCKVILLE, MD. 20850
(301) 251-0929

84 OCT 29 A11:13
FEDERAL ELECTION COMMISSION
GENERAL COUNSEL

October 26, 1984

Federal Election Commision
Washington, D.C. 20463

Re: MUR 1641

Gentlemen:

Enclosed are the Answers to Interrogatories submitted on behalf of Local 190 of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada.

Local 190's position is that this matter should be dismissed. The phone system was purchased two years ago in 1982 and thus, there were no installation costs incurred that could in any reasonable way be attributed to the MPC for its temporary use of two of the Local's telephones during two months in 1984. This was not a case where new or special phones were installed by Local 190 for the specific purpose of leasing to the MPC. Moreover, even if any amount of the installation costs could rationally be apportioned to the MPC, the amount would be truly de minimus, since the installation costs would have to be spread out into the future over the period the phones are actually in use by the Local. Obviously, the MPC's part-time use of the phones during two months would prove to be but a tiny fraction of the total useful life of the phones.

In these circumstances, it cannot be said that the "usual and normal charge" for use of the phones by the MPC should include a fraction of the installation costs and, thus, the matter should be dismissed.

Very truly yours,

Robert Matisoff

RM;man
CC: Bruce Towler
Enclosure

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ANSWERS TO INTERROGATORIES OF UNITED ASSOCIATION OF JOURNEYMEN AND APPRENTICES OF THE PLUMBING AND PIPEFITTING INDUSTRY OF THE U.S. AND CANADA, LOCAL 190

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

A. Yes.

2. If the answer to question 1 is yes, state:

   a) the dates of such use by MPC;
   b) the location of the telephones used;
   c) the total amount of time the telephones were used by MPC; and,
   d) the number of telephones used by MPC.

A. a) December 1983-March 1984.
   b) In the offices of Local 190.
   c) A record was not kept on the amount of time the telephones were used by MPC but, instead, the number of calls made.
   d) Two.

3. If the answer to question 1 is yes, state:

   a) the date that each of the telephones used by MPC were installed;
   b) the cost of the installations;
   c) the purpose of the installations;
   d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
   e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and
   f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

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A. a) The two phones were installed as part of a new telephone system (which included other phones) installed in the offices of Local 190 in June 1982.

b) No separate record is available showing the installation costs for the two phones in question; there is only a record of the total cost of purchase and installation of the complete system, which was $2631.28.

c) To provide a telephone system for the conduct of Local 190's regular business.

d) No.

e) No deposits were paid as the phones were purchased.

f) Obviously, as the phones were installed two years ago, no portion of the installation costs were billed to the MPC. There were no deposit costs to Local 190.

Bruce E. Towler

Signed and subscribed
before me this 25
day of October, 1984.

Notary Public

MARY BETH KANTZLER
Notary Public, Livingston County, MI
My Commission Expires May 2, 1988

Acting in Washtenaw County

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LAW OFFICES
O'DONOGHUE & O'DONOGHUE
4748 WISCONSIN AVENUE, N.W.
WASHINGTON, D.C. 20016

WASHINGTON, DC 200
PM
26 OCT
1984

OCTOBER IS
STAMP COLLECTING
MONTH

Federal Election Commission
Washington, D.C. 20463

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GCC#5388

LAW OFFICES OF
PETERSON, BELL & CONVERSE
2100 AMERICAN NATIONAL BANK BUILDING
101 EAST FIFTH STREET
ST. PAUL, MINNESOTA 55101
(612) 224-4703

RECEIVED
OFFICE OF THE FEC
SECRETARY
84 OCT 29 P4:03

ERWIN A. PETERSON
ROBERT C. BELL
WILLARD L. CONVERSE
ROGER A. JENSEN
KURT P. WALTHER
W. TIMOTHY MALCHOW
MARTIN J. COSTELLO
DAVID S. ANDERSON
JAMES C. ERICKSON
WILLIAM M. DRINANE
PAMELA J CONVERSE

October 26, 1984

84 OCT 29 P4:58
OFFICE OF THE GENERAL COUNSEL

Federal Election Commission
Washington, D. C. 20463

Attention: Lee Ann Elliott
Chairman

Re: In the Matter of the Investigation of United Brotherhood of Carpenters and Joiners of America, Local 7, Associated with the Twin City Carpenters District Council, AFL-CIO
MUR 1641
Our File No. L3-1656

Dear Ms. Elliott:

I have just received a copy of the General Counsel's factual and legal analysis of the above captioned matter and the complaint in a case involving labor unions other than my client, Carpenters Local 7.

None of the matters contained therein affect the response we have previously made to the initial complaint. Here, there was not use of the phones by any organization associated with Walter Mondale's reelection compaign and, therefore, there is no substantive basis for the complaint, even assuming the validity of your General Counsel's factual and legal analysis.

Yours very truly,

PETERSON, BELL & CONVERSE

Roger A. Jensen

RAJ/eld

cc: Ms. Kathy Krieger
Twin City Carpenters District Council
Carpenters Local No. 7

8504186

LAW OFFICES OF
TERSON, BELL & CONVERSE
AMERICAN NATIONAL BANK BUILDING
ST. PAUL, MINNESOTA 55101

C 00 3 1 8 5 5

Federal Election Commission
Washington, D. C. 20463

Attention: Lee Ann Elliott
Chairman

84 OCT 29 P 3:

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GCC#5342
84 OCT 29 AM 11:

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: William Oldaker, Esq.

ADDRESS: Epstein, Becker, Borsody and Green P.C.
1140 19th St. N.W.
Suite 900
Washington, DC 20036

TELEPHONE: 202-861-0900

RECEIVED
GENERAL COUNSEL
84 OCT 29 AM 11:

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

10/2/84
Date

Signature

RESPONDENT'S NAME: Massachusetts Federation of Teachers

ADDRESS: 296 Boylston Street
Boston, MA 02116

HOME PHONE:

BUSINESS PHONE: (617) 262-3883

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GCC#5390

LAW OFFICES

CONNERTON, BERNSTEIN & KATZ

SUITE 800
1899 L STREET, N. W.
WASHINGTON, D. C. 20036
(202) 466-6790

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(703) 524-1900

TELECOPIER (202) 659-5559

ROBERT J. CONNERTON
JULES BERNSTEIN
DANIEL M. KATZ *
DONALD ELISBURG
DAVID W. ELBAOR *
THEODORE T. GREEN *
JAMES S. RAY *
PHILLIS PAYNE
LINDA LIPSETT ‡
ORRIN BAIRD
LAURENCE E. GOLD
STEPHEN P. CLARK
STANLEY C. WISNIEWSKI †
SAMUEL W. HALPERN
SHELLEY D. HAYES

JACK CURRAN
LEGISLATIVE DIRECTOR
(NOT A MEMBER OF THE BAR)

* ADMITTED IN VA AND MD
† ADMITTED IN MD ONLY
‡ ADMITTED IN CA ONLY

October 29, 1984

Mr. Charles Steele
General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1641

Dear Mr. Steele:

This letter constitutes the response of the Laborers' International Union, AFL-CIO ("International Union"), to the Federal Election Commission's letter dated September 26, 1984 stating that "there is reason to believe that the Laborers' International Union of North America . . . violated 2 U.S.C. §441B(a)" by "incur[ring] the total installation and deposit costs of telephones used by the Mondale for President Committee at the Labor Organization's facilities." By letter dated October 17, 1984, the time for responding to the September 26 letter was extended until 10 days from receipt of the October 17 letter. The International Union submits for the three reasons that follow that the Commission should not have found reason to believe that the International Union had violated the Federal Election Campaign Act.

1. According to the Commission's October 17, 1984 letter, this is a complaint-initiated matter. The Commission's regulations provide with regard to "complaint generated" compliance matters that respondents "shall be afforded an opportunity to demonstrate that no action should be taken on the basis of a complaint by submitting a letter or memorandum setting forth reasons why the Commission should take no action." 11 C.F.R. §111.6. The Commission's regulations further provide that the Commission "shall not take any action or make any finding against a respondent other than an action dismissing the complaint

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unless it has considered such response or unless no such response has been served upon the Commission within the [specified] time period." Id.

By finding reason to believe against the International Union without first affording the International Union an opportunity to demonstrate why no such action should be taken, the Commission has violated §437g(a) of the Act and § 111.6 of its regulations, and therefore, its reason to believe determination is invalid and must be rescinded.

Moreover, the complaint supplied to the International Union by the October 17, 1984 letter is insufficient under § 111.4 of the Commission's regulations. That complaint fails to name the International Union as a respondent as required by §111.4(b)(1) and also fails to "contain a clear and concise recitation of the facts which describe a violation" of the Act by the International Union as required by §111.4(d)(3) of the regulations. Indeed, the complaint makes no mention whatsoever of the International Union or of any actions taken by the International Union.

2. Even if this is considered as an "internally generated" matter pursuant to §111.8 of the regulations, it still is insufficient as a matter of law and should be rescinded. Section 437g(a)(2) of the Act and § 111.8(b) of the regulations require that, if the Commission finds "reason to believe that a violation has occurred" in an internally generated matter, it must give notification to the respondent and "include a copy of a staff report setting forth the legal basis and the alleged facts which support the Commission's action." No such factual or legal analysis was included with the September 26, 1984 letter to the Laborers' International Union in this matter.

A document entitled "Federal Election Commission General Counsel's Factual and Legal Analysis" was included in the October 17, 1984 letter to the International Union. Despite the title of the document, it contains no factual information and simply states: "the evidence in hand indicates that the instant labor organization permitted its telephones to be utilized by MPC." It fails to mention the International Union by name or to state when, where and how the International Union "permitted its telephones to be utilized by MPC."

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A "complaint" was also included in the October 17, 1984 letter, but as set forth above, that complaint failed to name the International Union as a respondent or to make any factual allegations against the International Union. Clearly, the October 17, 1984 letter is not adequate "notification" under 2 U.S.C. § 437g(a)(2) and §§ 111.8(b) and 111.9(a) of the regulations. Nor do the Commission's actions in this matter comport with the basic principles of due process. Therefore, even if this matter is treated as an internally generated matter, the International Union has not been given adequate notification, and accordingly, the reason to believe determination should be rescinded.

3. Finally the answers of the International Union to the Interrogatories propounded to it by the Commission, which are enclosed, establish that the International Union has not permitted the Mondale for President Committee, Inc., to use any phones of the International Union. Thus, the factual assumptions of the Commission's "reason to believe" letters of September 26, 1984 and October 17, 1984 are incorrect and therefore, they must be rescinded.

Sincerely,

Orrin Baird

Attorney for the Respondent
Laborers' International Union
of North America

OB/ns

8504054187 0

City of Washington)
) ss:
District of Columbia)

AFFIDAVIT OF JACK CURRAN

In response to the Interrogatories propounded to the Laborers' International Union of North America, AFL-CIO, by the Federal Election Commission on September 25, 1984 in connection with MUR 1641, affiant, having been duly sworn under oath, deposes and says as follows:

1. I am the Political Director of the Laborers' International Union and as such I am responsible for the political activities of the International Union including any involvement by the Union in activities supporting candidates for the presidency of the United States.

2. In answer to Interrogatory No. 1, I am not aware that the Laborers' International Union or any of its authorized agents permitted telephones of the Laborers' International Union to be used by the Mondale for President Committee, Inc. No leases or other agreements regarding the use of the telephones of the Laborers' International Union by the Mondale for President Committee have ever been authorized and/or approved by the International Union.

8504054871

3. Since Interrogatory No. 1 was answered in the negative, Interrogatories 2 and 3 are not applicable.

Jack Curran

Jack Curran

Subscribed and sworn to before me this 29 day of October, 1984.

Mary D'Amelia

Notary Public

My Commission Expires August 14, 1987

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LAW OFFICES

CONNERTON, BERNSTEIN & KATZ

SUITE 800

1899 L STREET, N.W.

WASHINGTON, D.C. 20036

Mr. Charles Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C.

HAND DELIVERY

GCC#5389

LEGAL SERVICES
OFFICE OF GENERAL COUNSEL

NATIONAL EDUCATION ASSOCIATION • 1201 16th St., N.W., Washington, D C 20036 • (202) 822-7035
MARY HATWOOD FUTRELL, President
KEITH GEIGER, Vice President
ROXANNE E. BRADSHAW, Secretary-Treasurer
DON CAMERON, Executive Director

White

October 29, 1984

84 OCT 29 P5:14
RECEIVED
OFFICE OF THE
GENERAL COUNSEL

Ms. Lee Ann Elliott
Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1641

Dear Ms. Elliott:

On September 25 and 26, 1984, you sent letters to the Burlington County Education Association ("BCEA"), the Clark County Classroom Teachers Association ("CCCTA"), the Massachusetts Teachers Association ("MTA") and MEA-NEA Local 1 ("Local 1") notifying them that the Commission had "determined that there is reason to believe [they] violated 2 U.S.C. § 441b(a)." Your letters indicate that the Commission's determinations were "based upon the General Counsel's analysis that the labor organization[s] incurred the total installation and deposit costs of telephones used by the Mondale for President Committee [("MPC")] at the labor organization[s'] facilities." I have been authorized to represent the above-named organizations in this MUR.[1]

In your September 25 and 26, 1984 letters, you ordered BCEA, CCCTA, MTA and Local 1 to respond to certain interrogatories. Their responses are enclosed.[2] You also invited these

---

[1] A Designation of Counsel Statement for CCCTA is enclosed. Statements for BCEA, MTA and Local 1 were submitted previously.

[2] Your September 25 and 26, 1984 notification letters did not include a copy of the referenced General Counsel's analysis.

(footnote continued)

8504054187 4

organizations to "submit any factual or legal materials which [they] believe are relevant to the Commission's analysis of this matter." The following is offered in response to this invitation.

A. The Requirements for Processing Matters Initiated by Complaint

The instant MUR is based upon a complaint filed by Ralph Martin Hettinga, Jr., in which he alleges that various organizations have "engaged in flagrant violations of Section 441b of the Federal Election Campaign Act as Amended...." Complaint at 2. The Commission's Regulations set forth certain requirements for processing" [m]atters initiated by complaint," and, as we demonstrate below, the Commission's determinations of "reason to believe" against BCEA, CCCTA, MTA and Local 1 are in violation of these requirements.

The Commission's Regulations provide that "[m]atters initiated by complaint are subject to the provisions of 11 C.F.R. 111.4 through 111.7." 11 C.F.R. § 111.3. Section 111.6(a) of the Regulations provides that a respondent

> shall be afforded an opportunity to demonstrate that no action should be taken on the basis of a complaint by submitting,

---

(footnote continued)

This document was sent to the organizations on October 17, 1984, and they were "afforded an additional ten days from the date of [their] receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding." The responses to the interrogatories are, therefore, due on October 29, 1984.

The Commission's Regulations provide that an investigation into violations of the Act "shall be conducted in any case in which the Commission finds reason to believe that a violation ... has occurred." 11 C.F.R. § 111.10. Since, for the reasons indicated infra, the Commission's findings of "reason to believe" are procedurally defective, we do not believe that BCEA, CCCTA, MTA and Local 1 are obligated to respond to the interrogatories. We are submitting these responses solely in support of our argument that no action should be taken against these organizations.

8504054187 5

> within fifteen (15) days from receipt of a copy of the complaint, a letter or memorandum setting forth reasons why the Commission should take no action.

Section 111.6(b) provides

> The Commission shall not take any action, or make any finding, against a respondent other than action dismissing the complaint, unless it has considered such response or unless no response has been served ... within the fifteen (15) day period....

(Emphasis added). The "General Counsel may recommend to the Commission whether or not it should find reason to believe that a respondent has committed ... a violation of statutes or regulations over which the Commission has jurisdiction" only after its receipt of a response or the expiration of the fifteen (15) day period, whichever occurs first. 11 C.F.R. § 111.7.

Here, in a complaint-generated matter, the Commission has notified BCEA, CCCTA, MTA and Local 1 that it has found "reason to believe" that they violated the Act. Inasmuch as the Commission has made these findings without affording the organizations the opportunity to demonstrate that no action should be taken against them, the "reason to believe" findings are procedurally defective and, for this reason alone, should be rescinded.

B. The Alleged Statutory Violations

We believe that the foregoing procedural defect warrants rescission of the "reason to believe" findings that the Commission made against BCEA, CCCTA, MTA and Local 1; we now demonstrate that those findings are in any event defective on factual and/or legal grounds.

1. BCEA and CCCTA

The allegations against BCEA and CCCTA can be disposed of summarily, inasmuch as their predicate is factually wrong. As indicated in the enclosed responses of BCEA and CCCTA to the Commission's interrogatories, the telephone banks in question were in both cases installed by the organizations several years ago for use in the regular course of their business -- i.e., in

8504187 6

1979 for BCEA, and "at least two years previously" for CCCTA. Thus, the telephone "set-ups" already were in place and the only "installation" costs were to activate the telephones for use in connection with the 1984 primary elections. As the attached responses indicate, BCEA and CCCTA both included these activation costs (i.e., $61.69 for BCEA and $114.60 for CCCTA) in the amount billed to MPC for its use of their telephones.[3]

Based on the foregoing, the "reason to believe" findings against BCEA and CCCTA should be rescinded, no action should be taken against these organizations and the file on them should be closed.

2. MTA and Local 1

Although the statement in your letters that MTA and Local 1 "incurred the total installation . . . costs of telephones used by the Mondale for President Committee at the labor organization[s'] facilities" is factually correct,[4] this does not provide the basis for any action by the Commission

In my October 9, 1984 letter to you in this MUR, I took issue with the Commission's position that a labor organization cannot bear the full cost for the installation of telephones that it installed for its own purposes if a campaign committee subsequently is allowed to make use of those telephones. I asserted that this position is wrong as a matter of law, and that its application in a situation such as this would in any event be inequitable and contrary to 2 U.S.C. § 427f(c). Those assertions are incorporated by reference here. In my October 9, 1984 letter (at footnote 6), I also posed a hypothetical in order to demonstrate why the Commission's position was illogical as well. That hypothetical is fact vis-a-vis MTA and Local 1.

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[3]There were no "deposit costs." Because these telephones were activated for use in connection with the primary elections and deactivated after the primaries, it was possible to determine how much to charge MPC. But see discussion regarding MTA and Local 1, infra.

[4]Again, there were no "deposit costs."

As the enclosed responses of MTA and Local 1 indicate, the telephones in question were installed and activated several years ago by the organizations for use in the regular course of their business; were used by MPC for a relatively brief period of time prior to the 1984 primary elections; and will remain installed and activated for the indefinite future for use by MTA and Local 1 in the regular course of their business. In these circumstances, it is impossible for MTA or Local 1 to determine MPC's pro rata share of the cost of installation based on total usage, and we can think of no other meaningful basis on which to compute an installation charge for MPC.

In short, the cost of installation should not legally, equitably or logically be included in the "normal and usual rental charge" for the use by MPC of MTA's and Local 1's telephones; accordingly, the "reason to believe "findings against MTA and Local 1 should be rescinded, no action should be taken against these organizations, and the file on them should be closed.

Sincerely,

Robert H. Chanin
Attorney for BCEA, CCCTA, MTA
and Local 1

RHC:gm
Enclosures

8504054187 8

BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of: MUR 1641

BURLINGTON COUNTY EDUCATION ASSOCIATION'S
RESPONSE TO INTERROGATORIES

1. Yes.

2. (a) Mondale campaign began calling on 5/22/84. Campaign completed on 6/5/84. Phone bank shut off 6/6/84. No use on 6/6/84.

   (b) Burlington County Education Association
   East Ridge Plaza
   Beverly-Rancocas Road
   Willingboro, NJ 08046

   (c) 15 days.

   (d) 8 telephones used.

3. (a) Phone bank installed approximately September 1979; turned on May 16, 1984.

   (b) Information not available; turn-on charge of $61.99.

   (c) Member communications.

   (d) No. (Arrangements for the use of phones discussed prior to activation).

   (e) No deposits.

   (f) $61.99.

I hereby declare under penalty of perjury that to the best of my knowledge and belief the foregoing responses are true and correct.

Angela M. Bertolino

ANGELA M. BERTOLINO
President, Burlington County
Education Association

Date: 10/26/84

3504054187 9

BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of: MUR 1641

CLARK COUNTY CLASSROOM TEACHERS ASSOCIATION'S
RESPONSE TO INTERROGATORIES

1. Yes.

2. (a) March 9 through March 13, 1984.

   (b) 1212 Casino Center Boulevard, South, Las Vegas, Nevada.

   (c) 5 days use.

   (d) 6 phones.

3. (a) Phone bank owned by CCCTA; installed at least two years previously; turned on March 8, 1984.

   (b) No installation costs but there was a cost to have telephones activated; to the best of our knowledge, this cost was $114.60 (telephone bill did not specify charge to activate as such).

   (c) Installed for membership drives and member communications; activated for use in Nevada primary election.

   (d) No. See 3a above. (Arrangements for the use of phones discussed prior to activation).

   (e) None.

   (f) $114.60

I hereby declare under penalty of perjury that to the best of my knowledge and belief the foregoing responses are true and correct.

Christina Giunchigliani

CHRISTINA GIUNCHIGLIANI
President, Clark County Classroom
Teachers Association

Date: 10/26/84

8504041880

BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of: MUR 1641

MASSACHUSETTS TEACHERS ASSOCIATION'S
RESPONSE TO INTERROGATORIES

1. Yes.

2. (a) February 27, 29; March 5, 7, 9, 1984.

(b) 48 Sword St., Auburn, MA; 1385J Main St., Randolph, MA; 534 New State Highway, Route 44, Raynham, MA; 20 Ashburton Place, Boston, MA.

(c) Auburn: 5 evenings; Randolph: 5 evenings; Raynham: 3 evenings; Boston: 3 evenings.

(d) 5 telephones.

3. (a) Except for Boston, telephones installed at time of initial occupancy: Auburn: June 1982; Randolph: February 1982; Raynham: April 1977. New telephone system installed in Boston in May 1979.

(b) Auburn: not available; Randolph: $9,466; Raynham: not available; Boston: not available.

(c) To conduct organizational business.

(d) No.

(e) None.

(f) Nothing.

I hereby declare under penalty of perjury that to the best of my knowledge and belief the foregoing responses are true and correct.

Edward P. Sullivan

EDWARD P. SULLIVAN

Date: 10/26/84

3504105481

IN THE FEDERAL ELECTION COMMISSION (MUR 1641)

INTERROGATORY ANSWERS OF MEA-NEA LOCAL 1

1. Yes.

2. a) Beginning of January through the Election on March 17th.

   b) The phones were located in the office at:

   37 Crocker Boulevard
   Mt. Clemens, MI 48043

   c) The phones were used 65 hours total.

   d) 3 to 4 phones were used each time.

3. a) There was no additional installation. The phones that were used were installed at the time of initial occupancy - December 1982.

   b) Not available.

   c) The phones were installed to conduct the official business of this organization.

   d) No discussion occurred.

   e) None.

   f) Nothing.

I HEREBY DECLARE UNDER PENALTY OF PERJURY, THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THE FOREGOING RESPONSES ARE TRUE AND CORRECT.

Rick Flynn

Rick Flynn, President, MEA-NEA Local 1

EXECUTED: 10-25-84
Date

8504054188 2

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Robert H. Chanin

ADDRESS: NEA Office of General Counsel
1201 Sixteenth Street, N.W.
Washington, D.C. 20036

TELEPHONE: (202) 822-7035

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

Oct. 25, 1984
Date

Chris Giunchigliani
Signature

RESPONDENT'S NAME: Christina Giunchigliani

ADDRESS: President, Clark County Classroom
Teachers Association
1212 Casino Center
Las Vegas, Nevada 89104

HOME PHONE: 702-732-0427

BUSINESS PHONE: 702-385-3287

8504118833

8504054188 4

NATIONAL EDUCATION ASSOCIATION
OF THE UNITED STATES
1201 Sixteenth Street, N. W.
Washington, D. C. 20036

Ms. Lee Ann Elliott
Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 29, 1984

William H. Schmelling, Esquire
One East Wacker Drive
Suite 1910
Chicago, Illinois 60601

Re: MUR 1641

Dear Mr. Schmelling:

This is in response to your telegram dated October 25, 1984, in which you request an eight day extension of time to respond to the interrogatories issued to your clients, Locals 3539 and 2944 of the United Steelworkers of America.

I have reviewed your request and agree to the requested extension. The responses of your clients are due, therefore, on November 9, 1984. If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

8504054188 3

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84 OCT 29 AM 11:14

EPSTEIN BECKER BORSODY & GREEN, P.C.
ATTORNEYS AT LAW
1140 19TH STREET, N.W.
WASHINGTON, D.C. 20036
(202) 861-0900

250 PARK AVENUE
NEW YORK, NEW YORK 10177
(212) 370-9600

MALLICK TOWER
ONE SUMMIT AVENUE
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1875 CENTURY PARK EAST
LOS ANGELES, CALIFORNIA 90067†
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SAN FRANCISCO, CALIFORNIA 94111†
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84 OCT 29 AM 11:14

October 25, 1984

Charles N. Steele, Esquire
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1641 - American Federation of Teachers - Motion to Reconsider Reason-To-Believe Determination and Quash Order for Written Answers

Dear Mr. Steele:

Enclosed please find Exhibit A which was inadvertently omitted from our Motion to Reconsider Reason-To-Believe Determination and Quash Order for Written Answers which was filed with your office on October 25, 1984.

Sincerely,

Leslie J. Kerman

Leslie J. Kerman

Counsel for American Federation of Teachers

8504054188 5

EXHIBIT A

PUBLIC INTEREST COMMUNICATIONS, INC.
282 North Washington Street Falls Church, Virginia 22046 703 237-5200

October 19,1984

Carolyn U. Oliphant
Deputy Counsel
Mondale-Ferraro Committee, Inc
2201 Wisconsin Avenue, NW
Washington, D.C. 20007

Dear Ms. Oliphant:

My name is Ken Whitaker and I am Vice-president of Public Interest Communications, a telemarketing firm. We provide phoning services for a variety of clients.

The portion of our charge to customers which covers the use of the telephone lines and equipment is calculated in the following manner. For the costs of the telephones, our clients are normally billed for the percentage of the monthly charges for the lines which are attributable to their use. In addition, they are charged for all actual long distance charges incurred. Our reimbursable overhead charges do not include a component for deposit or installation costs. We do not charge for the installlation costs because they are a one time expense and therefore are not considered as a continuing overhead item.

Our overhead charge includes a percentage of utility costs and rent relating to the length of time our phones are used. The only additional charges are for the personnel which we might provide to supervise and make the phone calls.

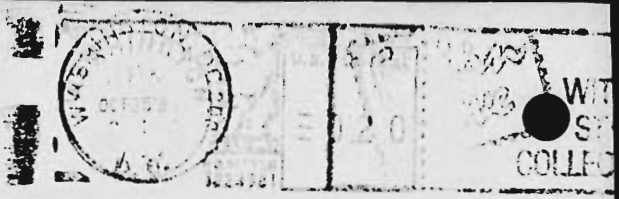
Sincerely,

Kenneth G. Whitaker

KGW/jc

8504041887

STEIN BECKER BORSODY & GREEN, P.C.
1140 19TH STREET, N.W.
WASHINGTON, D.C. 20036



Charles N. Steele, Esquire
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

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84 OCT 29 AM 8:23

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EPSTEIN BECKER BORSODY & GREEN, P.C.
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250 PARK AVENUE
NEW YORK, NEW YORK 10177
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1875 CENTURY PARK EAST
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(213) 556-8861

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(415) 398-5565

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October 25, 1984

RECEIVED
84 OCT 29 AM 11:14
GENERAL COUNSEL

Charles N. Steele, Esquire
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1641 - American Federation of Teachers, Local 2309 - Motion to Reconsider Reason-To-Believe Determination and Quash Order for Written Answers

Dear Mr. Steele:

Enclosed please find Exhibit A which was inadvertently omitted from our Motion to Reconsider Reason-To-Believe Determination and Quash Order for Written Answers which was filed with your office on October 25, 1984.

Sincerely,

Leslie J. Kerman

Leslie J. Kerman

Counsel for American Federation of Teachers, Local 2309

3504041882

EXHIBIT A

PUBLIC INTEREST COMMUNICATIONS, INC.
282 North Washington Street Falls Church, Virginia 22046 703 237-5200

October 19,1984

Carolyn U. Oliphant
Deputy Counsel
Mondale-Ferraro Committee, Inc
2201 Wisconsin Avenue, NW
Washington, D.C. 20007

Dear Ms. Oliphant:

My name is Ken Whitaker and I am Vice-president of Public Interest Communications, a telemarketing firm. We provide phoning services for a variety of clients.

The portion of our charge to customers which covers the use of the telephone lines and equipment is calculated in the following manner. For the costs of the telephones, our clients are normally billed for the percentage of the monthly charges for the lines which are attributable to their use. In addition, they are charged for all actual long distance charges incurred. Our reimbursable overhead charges do not include a component for deposit or installation costs. We do not charge for the installlation costs because they are a one time expense and therefore are not considered as a continuing overhead item.

Our overhead charge includes a percentage of utility costs and rent relating to the length of time our phones are used. The only additional charges are for the personnel which we might provide to supervise and make the phone calls.

Sincerely,

Kenneth G. Whitaker

KGW/jc

8504041890

PSTEIN BECKER BORSODY & GREEN, P.C.
1140 19TH STREET, N.W.
WASHINGTON, D.C. 20036

Charles N. Steele, Esquire
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

84 OCT 29 A8:28

83040511891

GCC#5317

EPSTEIN BECKER BORSODY & GREEN, P.C.
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RECEIVED
OFFICE OF THE
GENERAL COUNSEL
OCT 26 P4:01

October 26, 1984

Charles N. Steele, Esquire
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1641 - Massachusetts Federation of Teachers, American Federation of Teachers - Motion to Reconsider Reason-to-Believe Determination and Quash Order for Written Answers

Dear Mr. Steele:

This responds to your letter, received by this office on October 18, 1984, wherein we were provided with the General Counsel's factual and legal analysis in the above-entitled matter and directed to answer a series of interrogatories within ten days of receipt of the letter. For the reasons set forth herein, we respectfully urge the Commission to reconsider its reason-to-believe determination and quash its order for written answers. Upon reconsideration, we believe that the Commission will properly determine that the complaint against the Massachusetts Federation of Teachers, American Federation of Teachers ("AFT") should be dismissed forthwith.

I. The Commission's Reason-to-Believe Determination Lacks A Legal Basis; Therefore, the Determination Should be Reconsidered and the Complaint Subsequently Dismissed

As set forth in the Commission's initial notification letter of September 25, 1984, the Commission's reason-to-believe determination in this matter is premised solely upon the General Counsel's belief that the American Federation of Teachers ("AFT") incurred the total deposit and installation costs of telephones used by the Mondale for President Committee ("Mondale Committee") at AFT's facilities. Therefore, under the General Counsel's view, AFT has allegedly violated the prohibition against labor organization contributions embodied in 2 U.S.C. § 441b(a) because it has incurred expenses with respect to telephone deposit and installation fees without obtaining reimbursement therefor.

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The General Counsel apparently believes that the "usual and normal charge" requirement in Section 114.9 of the regulations makes it expressly mandatory for AFT to have requested reimbursement from the Mondale Committee for a portion of the telephone deposit and installation fees. In allegedly not charging the Mondale Committee for deposit and installation fees, the General Counsel contends that AFT's charges to the Mondale Committee were per se less than the required "usual and normal charge."

As we demonstrate herein, the Commission's reason-to-believe determination based therein should, on reconsideration, be rescinded.

There is absolutely no basis, either in the Federal Election Campaign Act of 1971, as amended, ("the Act") or in the Commission's regulations, advisory opinions or enforcement actions thereunder, for requiring a portion of deposit and installation fees to be included in computing the "usual and normal charge" for the use of telephones owned by a labor organization or corporation. Moreover, neither the General Counsel nor the Commission has offered any support for their contention that labor organizations are required to request reimbursement for a portion of telephone deposit and installation costs. To the contrary, the Commission's advisory opinions and enforcement actions reveal no instance where telephone deposit or installation fees were required to be included in reimbursement under the "usual and normal charge" standard. Further, it is the standard practice of telemarketing firms not to charge their customers any portion of telephone deposit or installation costs.[1/]

In short, even assuming that AFT incurred telephone deposit and installation fees without requiring reimbursement from the Mondale Committee for any portion thereof, there is still no basis in the Act or regulations for the Commission's position that a portion of telephone deposit and installation fees must be included in computing the "usual and normal charge" of telephones used by a campaign. Moreover, by departing without notice or explanation from its longstanding practices and imposing the additional regulatory burdens

---

1/ See letter from Kenneth G. Whitaker, Vice President of Public Interest Communications, Inc., a telemarketing firm, attached hereto as Exhibit A.

8504054189 3

noted above in a retroactice fashion,[2] the Commission has acted in an arbitrary and capricious manner.

a. The Commission's Regulations Do Not Require Reimbursement For Installation or Deposit Fees.

Section 114.9 of the Commission's regulations provides that:

> Persons . . . who make any use of corporate or labor organization facilities, such as by using telephone or typewriters or borrowing office furniture for activity in connection with a federal election are required to reimburse the corporation or labor organization within a commercially reasonable time, in the amount of the normal and usual rental charge . . . for the use of the facilities.

11 C.F.R. Section 114.9(d)(1982). As defined in Section 100.7 of the regulations, the normal and usual rental charge is "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution."

However, aside from the "market price" definition of "normal and usual charge," the Commission's regulations offer no guidance whatsoever on how to calculate reimbursement. Significantly, the regulations do not, under any possible construction, provide that telephone deposit and installation fees are per se includable in the computation of the "normal and usual charge" for the use of labor organization or corporate telephones. Thus, the Commission's formula for calculating reimbursement must be determined by reference to its advisory opinions and enforcement actions. It is these past Commission practices by which AFT and other unions rely in determining their own reimbursement policies with respect to the use of their telephones by political committees.

---

[2] It is well-established that the Commission cannot depart from its past practices, as it does here, without providing cogent reason for doing so. Columbia Broadcasting Systems, Inc. v. FCC, 454 F.2d 1018, 1026 (D.C. Cir. 1971); accord Greater Boston Television Corp. v. FCC, 444 F.2d 841, 852 (D.C. Cir. 1970), cert denied, 403 U.S. 923 (1971).

8504041894

b. The Commission's Advisory Opinions Reveal No Instance Where Installation or Deposit or Any Analogous Fees Were Required.

The Commission has issued numerous advisory opinions which clearly establish a methodology for calculating reimbursement for the use of union office facilities and equipment, and these opinions do not require the inclusion of telephone deposit and installation fees under the "usual and normal charge" standard.

For example, in Opinion of Counsel 1976-80, the Commission determined that the normal and usual charge for the use of union telephones includes charges for the office space, utilities, and furniture used to conduct the telephoning. The opinion expressly stated that "[a]ny method that would reasonably compute the rental value of these items would be acceptable by the Commission." (Emphasis added). Although the Commission gave detailed requirements for incidental charges such as utilities and furniture, its calculation formula for reimbursement did not require the express inclusion of deposit or installation fees therein. In short, the Commission's opinion established that insofar as a union used a methodology which reasonable computed the overall rental value, it has met its burden under the regulations and need not specify that a political committee pay reimbursement of other expenses not explicitly identified by the Commission.

Similarly, in Advisory Opinion 1978-34, the Commission stated that a congressional campaign could not merely reimburse the corporation for the charge by the telephone company of $.076 per local call but must pay "the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities, and furniture to conduct the phoning." A.O. 1978-34 (July 17, 1978), reprinted in 1 Fed. Elec. Campaign Fin. Guide (CCH) Paragraph 5328, at 10,310 (1980). Again, however, the Commission made no reference to any other specific charges, like deposit or installation fees, for which reimbursement is mandatory.3/

3/ Note that A.O. 1978-34 has been cited as precedent in several of the MURs discussed herein.

3 5 0 4 0 5 4 1 8 9 5

c. The Commission in its Enforcement Actions Has Never Required Deposit or Installation Fees for the Use of Phones.

The Commission's enforcement actions ("MURs") with respect to telephone charges confirm the conclusion that deposit or installation fees need not be reimbursed under the Commission's established methodology for determining "usual and normal" charges.

For example, in MUR 1314 (1980), the Commission found reason to believe that the Carter-Mondale Presidential Committee ("CMPC") accepted corporate in-kind contributions in the form of free use of office space, utilities, telephones and a computer. CMPC argued that the use of the corporate facilities was "occasional, isolated, and incidental" and as such, the corporation should have been only reimbursed to the extent that, as a result of campaign use, it incurred expenses above its operating costs. See Respondent's Brief at 9. The General Counsel rejected this view, citing A.O. 1978-34 for the rule that reimbursement should be for the usual and normal rental charge of the facilities, i.e., the cost of renting comparable facilities in the commercial market rather than the increase in overhead alone. See General Counsel's Brief at 16. A conciliation agreement was entered into whereby CMPC agreed to reimburse the corporation in the amount estimated by the corporation as the usual and normal rental charge. In following the Commission's well established reimbursement formula set forth above, neither the reason-to-believe determination of the Commission nor the calculation agreement entered into by CMPC required reimbursement for any deposit or installation fees. See MUR 1369(81) (rental charges accepted by the Commission did not explicitly include deposit or installation fees); see also MUR 1349 (neither deposit or installation fees mentioned in General Counsel's investigative record).

d. Conclusion

As demonstrated herein, there is absolutely no authority for the proposition that labor organizations are required to include a portion of deposit and installation fees in computing the "usual and normal charge" for the use of telephones by a campaign committee, the sole legal basis for this complaint. Therefore, even assuming that AFT incurred

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the total costs of deposit and installation fees, as the General Counsel alleges, the Commission has no legal basis for its determination that AFT has violated the Act.[4/]

II. The Commission's Request For Written Orders Is Unnecessary And Irrelevant, And, Accordingly, Should Be Quashed.

Because telephone deposit and installation fees need not be expressly reimbursed to AFT, the Commission's request for answers to written interrogatories is unnecessary, and should be quashed. Even if AFT has not expressly sought and obtained reimbursement for such expenses, it cannot be found to have violated the "usual and normal charge" standard in the Commission's regulations and therefore the prohibition against union contributions in the Act. Thus, the Commission's request for information concerning the same is irrelevant and unnecessary.

To the extent that the Commission's request for interrogatory answers seeks information unrelated to deposit and installation fees, the Commission's request constitutes a baseless fishing expedition into AFT's internal affairs. With neither reason-to-believe nor even any allegations of other wrongdoing, the Commission may not seek extraneous information that is beyond the scope of its investigation.

Accordingly, we urge the Commission to reconsider and subsequently rescind its reason-to-believe determination in this matter, and additionally quash its order for written answers.

Respectfully submitted,

William C Oldaker lyk
William C. Oldaker

Leslie J Kerman
Leslie J. Kerman

Counsel for the Massachusetts Federation of Teachers, American Federation of Teachers

4/ In addition, note that AFT objects to the fact that it was not allowed to respond to this complaint-generated MUR prior to the Commission's reason-to-believe determination, in violation of Section 111.6 of its regulations.

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EXHIBIT A

PUBLIC INTEREST COMMUNICATIONS, INC.
282 North Washington Street Falls Church, Virginia 22046 703/237-5200

October 19,1984

Carolyn U. Oliphant
Deputy Counsel
Mondale-Ferraro Committee, Inc
2201 Wisconsin Avenue, NW
Washington, D.C. 20007

Dear Ms. Oliphant:

My name is Ken Whitaker and I am Vice-president of Public Interest Communications, a telemarketing firm. We provide phoning services for a variety of clients.

The portion of our charge to customers which covers the use of the telephone lines and equipment is calculated in the following manner. For the costs of the telephones, our clients are normally billed for the percentage of the monthly charges for the lines which are attributable to their use. In addition, they are charged for all actual long distance charges incurred. Our reimbursable overhead charges do not include a component for deposit or installation costs. We do not charge for the installlation costs because they are a one time expense and therefore are not considered as a continuing overhead item.

Our overhead charge includes a percentage of utility costs and rent relating to the length of time our phones are used. The only additional charges are for the personnel which we might provide to supervise and make the phone calls.

Sincerely,

Kenneth G. Whitaker

KGW/jc

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EPSTEIN BECKER BORSODY & GREEN, P. C.
ATTORNEYS AT LAW
1140 19TH STREET, N. W.
WASHINGTON, D. C. 20036

Charles N. Steele, Esquire
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

GCC#5313

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(817) 334-0701

1875 CENTURY PARK EAST
LOS ANGELES, CALIFORNIA 90067†
(213) 556-8861

FOUR EMBARCADERO
SAN FRANCISCO, CALIFORNIA 94111†
(415) 398-3565

†P.C. IN NEW YORK AND WASHINGTON, D.C. ONLY

October 25, 1984

RECEIVED
FEDERAL ELECTION
GENERAL COUNSEL
84 OCT 25 P 5:06

Charles N. Steele, Esquire
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1641 - American Federation of Teachers, Local 2309 - Motion to Reconsider Reason-to-Believe Determination and Quash Order for Written Answers

Dear Mr. Steele:

This responds to your letter, received by this office on October 18, 1984, wherein we were provided with the General Counsel's factual and legal analysis in the above-entitled matter and directed to answer a series of interrogatories within ten days of receipt of the letter. For the reasons set forth herein, we respectfully urge the Commission to reconsider its reason-to-believe determination and quash its order for written answers. Upon reconsideration, we believe that the Commission will properly determine that the complaint against AFT should be dismissed forthwith.

I. The Commission's Reason-to-Believe Determination Lacks A Legal Basis; Therefore, the Determination Should be Reconsidered and the Complaint Subsequently Dismissed

As set forth in the Commission's initial notification letter of September 25, 1984, the Commission's reason-to-believe determination in this matter is premised solely upon the General Counsel's belief that the American Federation of Teachers ("AFT") incurred the total deposit and installation costs of telephones used by the Mondale for President Committee ("Mondale Committee") at AFT's facilities. Therefore, under the General Counsel's view, AFT has allegedly violated the prohibition against labor organization contributions embodied in 2 U.S.C. § 441b(a) because it has incurred expenses with respect to telephone deposit and installation fees without obtaining reimbursement therefor.

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The General Counsel apparently believes that the "usual and normal charge" requirement in Section 114.9 of the regulations makes it expressly mandatory for AFT to have requested reimbursement from the Mondale Committee for a portion of the telephone deposit and installation fees. In allegedly not charging the Mondale Committee for deposit and installation fees, the General Counsel contends that AFT's charges to the Mondale Committee were per se less than the required "usual and normal charge."

As we demonstrate herein, the Commission's reason-to-believe determination based therein should, on reconsideration, be rescinded.

There is absolutely no basis, either in the Federal Election Campaign Act of 1971, as amended, ("the Act") or in the Commission's regulations, advisory opinions or enforcement actions thereunder, for requiring a portion of deposit and installation fees to be included in computing the "usual and normal charge" for the use of telephones owned by a labor organization or corporation. Moreover, neither the General Counsel nor the Commission has offered any support for their contention that labor organizations are required to request reimbursement for a portion of telephone deposit and installation costs. To the contrary, the Commission's advisory opinions and enforcement actions reveal no instance where telephone deposit or installation fees were required to be included in reimbursement under the "usual and normal charge" standard. Further, it is the standard practice of telemarketing firms not to charge their customers any portion of telephone deposit or installation costs.[1/]

In short, even assuming that AFT incurred telephone deposit and installation fees without requiring reimbursement from the Mondale Committee for any portion thereof, there is still no basis in the Act or regulations for the Commission's position that a portion of telephone deposit and installation fees must be included in computing the "usual and normal charge" of telephones used by a campaign. Moreover, by departing without notice or explanation from its longstanding practices and imposing the additional regulatory burdens noted above in a retroactice fashion,[2/] the Commission has acted in an arbitrary and capricious manner.

1/ See letter from Kenneth G. Whitaker, Vice President of Public Interest Communications, Inc., a telemarketing firm, attached hereto as Exhibit A.

2/ It is well-established that the Commission cannot depart from its past practices, as it does here, without providing cogent reason for doing so. Columbia Broadcasting Systems, Inc. v. FCC, 454 F.2d 1018, 1026 (D.C. Cir. 1971); accord Greater Boston Television Corp. v. FCC, 444 F.2d 841, 852 (D.C. Cir. 1970), cert denied, 403 U.S. 923 (1971).

8504101

a. The Commission's Regulations Do Not Require Reimbursement For Installation or Deposit Fees.

Section 114.9 of the Commission's regulations provides that:

> Persons . . . who make any use of corporate or labor organization facilities, such as by using telephone or typewriters or borrowing office furniture for activity in connection with a federal election are required to reimburse the corporation or labor organization within a commercially reasonable time, in the amount of the normal and usual rental charge . . . for the use of the facilities.

11 C.F.R. Section 114.9(d)(1982). As defined in Section 100.7 of the regulations, the normal and usual rental charge is "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution."

However, aside from the "market price" definition of "normal and usual charge," the Commission's regulations offer no guidance whatsoever on how to calculate reimbursement. Significantly, the regulations do not, under any possible construction, provide that telephone deposit and installation fees are per se includable in the computation of the "normal and usual charge" for the use of labor organization or corporate telephones. Thus, the Commission's formula for calculating reimbursement must be determined by reference to its advisory opinions and enforcement actions. It is these past Commission practices by which AFT and other unions rely in determining their own reimbursement policies with respect to the use of their telephones by political committees.

b. The Commission's Advisory Opinions Reveal No Instance Where Installation or Deposit or Any Analogous Fees Were Required.

The Commission has issued numerous advisory opinions which clearly establish a methodology for calculating reimbursement for the use of union office facilities and equipment,

3504190 2

and these opinions do not require the inclusion of telephone deposit and installation fees under the "usual and normal charge" standard.

For example, in Opinion of Counsel 1976-80, the Commission determined that the normal and usual charge for the use of union telephones includes charges for the office space, utilities, and furniture used to conduct the telephoning. The opinion expressly stated that "[a]ny method that would reasonably compute the rental value of these items would be acceptable by the Commission." (Emphasis added). Although the Commission gave detailed requirements for incidental charges such as utilities and furniture, its calculation formula for reimbursement did not require the express inclusion of deposit or installation fees therein. In short, the Commission's opinion established that insofar as a union used a methodology which reasonable computed the overall rental value, it has met its burden under the regulations and need not specify that a political committee pay reimbursement of other expenses not explicitly identified by the Commission.

Similarly, in Advisory Opinion 1978-34, the Commission stated that a congressional campaign could not merely reimburse the corporation for the charge by the telephone company of $.076 per local call but must pay "the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities, and furniture to conduct the phoning." A.O. 1978-34 (July 17, 1978), reprinted in 1 Fed. Elec. Campaign Fin. Guide (CCH) Paragraph 5328, at 10,310 (1980). Again, however, the Commission made no reference to any other specific charges, like deposit or installation fees, for which reimbursement is mandatory.3/

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3/ Note that A.O. 1978-34 has been cited as precedent in several of the MURs discussed herein.

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d. Conclusion

As demonstrated herein, there is absolutely no authority for the proposition that labor organizations are required to include a portion of deposit and installation fees in computing the "usual and normal charge" for the use of telephones by a campaign committee, the sole legal basis for this complaint. Therefore, even assuming that AFT incurred the total costs of deposit and installation fees, as the General Counsel alleges, the Commission has no legal basis for its determination that AFT has violated the Act.4/

4/ In addition, note that AFT objects to the fact that it was not allowed to respond to this complaint-generated MUR prior to the Commission's reason-to-believe determination, in violation of Section 111.6 of its regulations.

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II. The Commission's Request For Written Orders Is Unnecessary And Irrelevant, And, Accordingly, Should Be Quashed.

Because telephone deposit and installation fees need not be expressly reimbursed to AFT, the Commission's request for answers to written interrogatories is unnecessary, and should be quashed. Even if AFT has not expressly sought and obtained reimbursement for such expenses, it cannot be found to have violated the "usual and normal charge" standard in the Commission's regulations and therefore the prohibition against union contributions in the Act. Thus, the Commission's request for information concerning the same is irrelevant and unnecessary.

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Accordingly, we urge the Commission to reconsider and subsequently rescind its reason-to-believe determination in this matter, and additionally quash its order for written answers.

Respectfully submitted,

William C Oldaker lsk
William C. Oldaker

Leslie J Kerman
Leslie J. Kerman

Counsel for the American Federation of Teachers, Local 2309

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GCC#5818

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RECEIVED
FEDERAL ELECTION
GENERAL COUNSEL
OCT 25 P 5:06

October 25, 1984

Charles N. Steele, Esquire
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1641 - American Federation of Teachers - Motion to Reconsider Reason-to-Believe Determination and Quash Order for Written Answers

Dear Mr. Steele:

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1/ See letter from Kenneth G. Whitaker, Vice President of Public Interest Communications, Inc., a telemarketing firm, attached hereto as Exhibit A.

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4/ In addition, note that AFT objects to the fact that it was not allowed to respond to this complaint-generated MUR prior to the Commission's reason-to-believe determination, in violation of Section 111.6 of its regulations.

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Accordingly, we urge the Commission to reconsider and subsequently rescind its reason-to-believe determination in this matter, and additionally quash its order for written answers.

Respectfully submitted,

William C Oldaker ejk
William C. Oldaker

Leslie J Kerman
Leslie J. Kerman

Counsel for the American Federation of Teachers

3504054911

western union

Telegram

GCC#5311

1-009343A299 10/25/84
ICS IPMWGWD WSH
01811 10-25 0112P EDT
ICS IPMWGWK
1-010310I299 10/25/84
TWX USWA PGH B DLY PD
1 DLY PITTSBURGH, PA OCTOBER 25, 1984
PMS FEDERAL ELECTION COMMISSION DLR
ATTENTION: MAURA WHITE
1325 K STREET, N.W.
WASHINGTON, D.C. 20463

1984 OCT 25 PM 1:44

RECEIVED
FEDERAL ELECTION
GENERAL COUNSEL

84 OCT 25 P2:59

RE: MUR 1641
MONDALE FOR PRESIDENT COMMITTEE

THANK YOU FOR SENDING TO ME COPIES OF FED ASSOCIATE GENERAL COUNSEL KENNETH GROSS' OCTOBER 17, 1984 LETTERS TO STEELWORKERS LOCAL UNION 3539 (ALBERT LEA, MINNESOTA) AND 2944)CLAREMONT, NEW HAMPSHIRE). THEY WERE RECEIVED ON OCTOBER 19, 1984. BY THE TERMS OF ASSOCIATE GENERAL COUNSEL GROSS' LETTERS, THEREFORE, RESPONSES BY THESE TWO STEELWORKER LOCAL UNIONS WOULD BE DUE ON OCTOBER 29, 1984.

I AM IN THE PROCESS OF RECEIVING ADDITIONAL INFORMATION FROM THESE

W.U. 1201-SF (R5-69)

western union

Telegram

TWO SMALL LOCAL UNIONS, NEITHER OF WHICH MAINTAINS ANY CLERICAL EMPLOYEES. IN ADDITION, I HAVE FEDERAL DISTRICT COURT AND COURT OF APPEALS BRIEFS DUE ON OCTOBER 26 AND OCTOBER 31. I AM SCHEDULED TO REPRESENT OTHER LOCAL UNIONS IN HEARINGS AND ORAL ARGUMENTS IN FEDERAL COURT ON NOVEMBER 2 AND 4, 1984. FINALLY, I HAVE BEEN ASSIGNED TO REPRESENT THE UNION IN OTHER MATTERS ON NOVEMBER 6 AND ON NOVEMBER 8 AND 9, 1984.

FOR THESE REASONS, ON BEHALF OF STEELWORKQZJGOCAL UNIONS 2944 AND 2539, I AM REQUESTING EXTENSIONS OF TIME TO NOVEMBER 9, 1984 FOR SUBMISSION OF THOSE LOCAL UNIONS' RESPONSES IN THIS MATTER.

WILLIAM H. SCHMELLING
ONE EAST WACKER DRIVE, SUITE 1910
CHICAGO, ILLINOIS 60601
(312) 467-1995

1216 EST

1220 EST

W.U. 1201-SF (R5-69)

RECEIVED AT THE FEC
GCC #5803

100 YEARS
1884 1984

UNITED PAPERWORKERS INTERNATIONAL UNION

WAYNE E. GLENN
President

October 23, 1984

LEGAL DEPARTMENT
LYNN AGEE, Esq.
MICHAEL HAMILTON, Esq.
MELINDA J. BRADSCOMB, Esq.
MARK M. BROOKS, Esq.

RECEIVED
FEC
1984 OCT 25 P1:54

Ms. Maura White
Staff Attorney
Federal Election Commission
Washington, D.C. 20463

Re: United Paperworkers International Union, Local 61
MUR 1641

Dear Ms. White:

This will supplement my response of October 9, 1984 to the Commission's letter of September 26, 1984, advising that there is reason to believe Local 61 violated the Act by allegedly incurring the "total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities."

As I indicated in paragraph 6 of my response, on April 12, 1984, Wilbur Barnett, President of Local 61, submitted a bill to the Mondale for President Committee for its use of the hall, use of Local 61's telephone, and for all toll calls it made on Local 61's telephone. The total amount of the bill was $43.77. I have enclosed herewith a copy of the aforementioned bill and its transmittal letter.

I have also enclosed herewith a copy of the agreement for the use of Local 61's hall and telephone entered into by the Union and the Mondale for President Committee.

Based on my response of October 9, 1984 and the supporting documentation enclosed herewith, it is clear that the Mondale for President Committee agreed to reimburse Local 61 for use of its hall and telephone in an amount which reasonably reflects a normal and usual rental charge for such facilities and equipment and was promptly billed by Local 61 for the use of those facilities and equipment. Accordingly, there is no basis for believing that Local 61 violated the Act by permitting the Mondale for President Committee to use its hall and telephone. Therefore, no further action should be taken against Local 61 in this matter.

Respectfully submitted,

Michael Hamilton
Counsel for UPIU Local 61

/sq
Enclosure

cc: George O'Bea, PEP Director

8504054191 3

April 12, 1984

Mr. Paul Jensen
Mondale For President
Washington, DC 20013

Dear Mr. Jensen,

Enclosed are the bill for renting the Union Hall, the telephone rent, and toll calls for the 23rd through the 28th of February here in Groveton, N.H.

Also, enclosed is a copy of the toll calls made by your campaign people.

Thank you,
From Local #61 - U.P.I.U.

Wilbur J. Barnett
President

CC: George O'Bea
Peggy McCormick
File

Encl.

8504054191 4

TO: Mr. Paul Jensen

FROM: Wilbur J. Barnett, President Local-61 U.P.I.U.

SUBJECT: Union Hall Rent and Telephone Bills

DATE: 4/12/84

Hall Rent $225.00 Per Month
Mondale Committee - 5 days, 1/3 use of Hall @ $2.50/day--$ 12.50.
Use of Telephone - $1.00/day for 5 days---------- 5.00.
Toll Calls (Sheets 1 & 2) 36 Calls----------26.27.
Total Bill--------- $43.77.

8504054191 5

AGREEMENT FOR THE USE OF LABOR ORGANIZATION FACILITIES AND EQUIPMENT

1. The Mondale for President Campaign Committee ("Committee") and UPIU Local 61 ("labor organization") agree this 22 day of February, 1984 that for the consideration set forth below, the Committee will use the following facilities and equipment of the labor organization on the dates indicated:

2. Dates of use: From Feb. 23 to Feb. 28

3. Location of facilities to be used: Groveton N.H.

4. Description of facilities and equipment:

OFFICE

1 phone

5. Other:

The labor organization agrees to invoice the Committee for the actual use of the facilities and equipment set forth above in an amount based on the normal and usual rental charge for such facilities and equipment in this community and including any actual telephone charges incurred by the Committee. The invoice will also include billing for the cost of any supplies provided to the Committee. The labor organization will promptly provide its invoice to the Committee, 2201 Wisconsin Avenue, N.W., Washington, D.C. 20007.

The Committee agrees to reimburse the labor organization for use of the labor organization's facilities within a commercially reasonable time.

The undersigned Committee representative is authorized to sign this Agreement on behalf of the Committee.

6. Signed: W. Barnett

7. W. Edward Barnett
Name

8. President Local #61
Position

10. Andy Meyers

11. Andy Meyers
Name

12. 101 Main St Berlin, N.H.
Local Address

8 5 0 4 0 5 4 1 1 9 1 6

100 YEARS
1884 1984

UNITED PAPERWORKERS INTERNATIONAL UNION

WAYNE E. GLENN
President

LEGAL DEPARTMENT
LYNN AGEE, Esq.
MICHAEL HAMILTON, Esq.
MELINDA J. BRANSCOMB, Esq.
MARK M. BROOKS, Esq.

October 23, 1984

Ms. Maura White
Staff Attorney
Federal Election Commission
Washington, D.C. 20463

Re: United Paperworkers International Union, Local 75
MUR 1641

Dear Ms. White:

I am writing on behalf of United Paperworkers International Union, Local 75, and in response to the Commission's letter of September 26, 1984, advising that there is reason to believe Local 75 violated the Act by allegedly incurring "total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities." This letter will also serve as Local 61's response to the interrogatories propounded by the Commission in this matter. I hereby swear that the answers given are true and correct to the best of my knowledge.

On October 20, 1983, the Mondale for President Committee, Inc. (hereinafter "MPC") entered into an agreement with United Paperworkers International Union, Local 75 for the use of the Union's facilities and equipment, specifically one room and ten telephones. In that agreement, Local 75 agreed to invoice MPC for the actual use of the room and telephones in an amount based on the normal and usual rental charge for such facilities and equipment in the community and including any actual telephone charges incurred by MPC. The invoice was to also include billing for the cost of any supplies provided by MPC. MPC, in turn, agreed to reimburse Local 75 for use of the Union's facilities and equipment within a commercially reasonable time. I have attached hereto a copy of the aforementioned agreement as exhibit A.

The telephones were actually not installed until on or about December 15, 1983. However, the telephones received their total use by MPC between January 1, 1984 and February 29, 1984. As indicated, the telephones were located within the Union hall. MPC used the telephones a total of 585 operator nours. MPC used a total of ten telephones.

8504054 19117

Re: United Paperworkers International Union, Local 75
MUR 1641

As indicated, the telephones were installed on or about December 15, 1983, at a total cost of $267.72. The purpose of the installation was to provide telephone bank service to MPC during the New Hampshire primary.

MPC was charged $247.18 for use of the Union's space from December 15, 1983, through February 28, 1984. MPC was charged $37.50 for use of the Union's furniture from December 15, 1983, through February 28, 1984. MPC was charged $64.00 for use of the Union's Xerox machine representing 640 copies at 10¢ per copy.

On April 17, 1984, in accordance with the agreement for use of the Union's facilities and equipment, the Union, through Vice President and Political Education Program Director George O'Bea, sent MPC an invoice representing all the costs incurred by the Union in connection with MPC's use of the Union's facilities and equipment from December 15, 1983, through February 28, 1984, totaling $1727.56. The invoice contains a detailed explanation and allocation of all charges. As indicated, MPC was charged for 100% of the cost of the telephones it used and was charged a commercially reasonable amount for use of the Union's office, furniture and xerox machine. I have attached a copy of that invoice and its transmittal letter hereto as Exhibit B. MPC has yet to remit payment for the aforementioned bill.

Based on the foregoing, it is clear that there is no basis for believing that Local 75 violated the Act by permitting MPC to use its facilities and equipment. In accordance with statutory requirements and its agreement with MPC, the Union promptly billed MPC for its use of the Union's facilities and equipment. Accordingly, no further action should be taken against Local 75 in this matter.

Respectfully submitted,

Michael Hamilton
Counsel for UPIU Local 75

/sq
Enclosures
cc: George O'Bea, PEP Director
Eldon Hebert, Vice President, Region I
Ken Ramage, International Representative
Ed Ferrari, President, UPIU Local 75, P.O. Box G,
Berlin, NH 03570

8504054918

EX. A

AGREEMENT FOR THE USE OF LABOR ORGANIZATION FACILITIES AND EQUIPMENT

The Mondale for President Campaign Committee ("Committee") and IUE Local 75 ("labor organization") agree this 20 day of October, 1983 that for the consideration set forth below, the Committee will use the following facilities and equipment of the labor organization on the dates indicated:

2. Dates of use: From Oct 20, 1983 to Feb 28, 1984

3. Location of facilities to be used: 145 Main St Berlin New Hampshire

4. Description of facilities and equipment:

1 room and 10 telephones

5. Other:

The labor organization agrees to invoice the Committee for the actual use of the facilities and equipment set forth above in an amount based on the normal and usual rental charge for such facilities and equipment in this community and including any actual telephone charges incurred by the Committee. The invoice will also include billing for the cost of any supplies provided to the Committee. The labor organization will promptly provide its invoice to the Committee, 2201 Wisconsin Avenue, N.W., Washington, D.C. 20007.

The Committee agrees to reimburse the labor organization for use of the labor organization's facilities within a commercially reasonable time.

The undersigned Committee representative is authorized to sign this Agreement on behalf of the Committee.

6. Signed: Cindy Meyers

7. Cindy Meyers
Name

8. Regional coordinator

10. Ellen E Neil

11. ELLEN J NEIL
Name

12. 45 Main St Berlin NH
Local Address

8504054919

EX. B

UNITED PAPERWORKERS INTERNATIONAL UNION

POLITICAL EDUCATION PROGRAM

WAYNE E. GLENN
President

GEORGE H. O'BEA, JR.
Vice President · PEP Director

JOHN M. DEFEE
Secretary—Treasurer

pep

April 17, 1984

Mondale for President Committee
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007

Attn: Christine Brewer

Dear Ms. Brewer:

Enclosed please find an invoice covering the Mondale for President's use of the United Paperworker's phones in our Berlin, N.H. office. This bill covers all costs incurred.

If you have any questions, please let us know.

Sincerely,

George H. O'Bea, Jr.
Vice President

GO:jrm
enc.

8504054192O

Washington Office AFL-CIO Bldg · Suite 304 · 815 16th St N.W., Washington, D.C. 20006 • Telephone (202) 783-5239

UNITED PAPERWORKERS INTERNATIONAL UNION

POLITICAL EDUCATION PROGRAM

WAYNE E. GLENN
President

GEORGE H. O'BEA, JR.
Vice President - PEP Director

JOHN M. DEFEE
Secretary—Treasurer

PEP

8504192 1

INVOICE April 17, 1984

TO: Mondale for President Committee
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007
Attn: Christine Brewer

FROM: United Paperworkers International Union
815 16th Street, N.W.
Washington, D.C. 20006

Use of United Paperworkers International Union's phones/office in Berlin, N.H. by Mondale for President Committee

TOTAL DUE: $1,727.56

Please make check payable to the United Paperworkers International Union, 815 16th Street, N.W., Washington, D.C. 20006.

Prompt payment would be appreciated.

EXPLANATION/ALLOCATION OF CHARGES

TELEPHONES

Total use by Mondale for President Committee:

January 1984	176 operator/hours
February 1984	409 operator/hours
Total	585 operator/hours

$$\frac{\text{Mondale for President use}}{\text{Total use}} = \frac{585}{882.5} = 66\%$$

Telephones, continued

Total Monthly Service Charge	$765.36	
765.36 X 66% =		$505.14
Total Tax	$ 39.13	
39.13 X 66% =		$ 25.83
Total AT&T Information	$ 29.98	
29.98 X 66% =		$ 19.79
Total Itemized Charges	$534.53	
534.53 X 100% =		$534.53**
Total AT&T Communication	$ 25.87	
25.87 X 100% =		$ 25.87**
Installation	$405.63	
405.63 X 66% =		$267.72
TOTAL CHARGE FOR TELEPHONES		$1,378.88

(** AFL-CIO operators were instructed not to make toll or long distance calls. Accordingly, we are billing the Mondale for President Committee for 100% of these charges.)

MONTHLY RENT/UTILITIES/INSURANCE

Cost for entire office	$296.60/mo.	
Mondale for President used 1/3 of office 296.60 X 1/3 =	98.87/mo.	
Space used from 12/15/83 through 2/28/84 98.87 X 2.5 months =		$247.18
Furniture charge	$ 15.00/mo.	
15.00 X 2.5 months =		$ 37.50
Xeroxing charge	10¢/copy	
640 copies X 10¢ =		$ 64.00
TOTAL CHARGE FOR SPACE, FURNITURE & COPYING		$348.68
TOTAL AMOUNT DUE		$1,727.56

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8504054 1923

NASHVILLE TENN OCT 23 '84 PM

FROM

UNITED PAPERWORKERS INTERNATIONAL UNION
AFL CIO CLC
3340 PERIMETER HILL DRIVE
P.O. BOX 1475
NASHVILLE, TENNESSEE 37202

To Ms. Maura White
Staff Attorney
Federal Election Commission
Washington, D.C. 20463

FIRST CLASS MAIL

Mondale for President
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007
Telephone: 202-625-1600

MONDALE

October 19, 1984

RECEIVED
FEDERAL ELECTION COMMISSION
GENERAL COUNSEL
84 OCT 19 P5:13

Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, NW
Washington, D.C. 20463

RE: MUR 1641

Dear Mr. Steele:

Enclosed please find our response to the Commission's second set of interrogatories in MUR 1641. In addition, please find a statement by an executive at a telemarketing firm which we believe is relevant to the Commission's consideration of this matter.

As the enclosed statement demonstrates, the Commission's investigation in this matter is based not only on what MPC believes to be an incorrect legal conclusion, but also on a faulty factual premise. The Commission's position apparently is that the normal and usual charge for use of phone banks should include a portion for deposit and installation costs. This conclusion was evidently reached without regard to any review of common commercial practice. As set forth in the attached letter, the normal and usual charge for phones provided by a commercial vendor would not include reimbursement for any portion of deposit or installation costs.

We feel that the additional information in this statement, along with our interrogatory responses, demonstrate that no further action should be taken against the Mondale for President Committee, Inc.

Sincerely,

David M. Ifshin by cuo
David M. Ifshin
General Counsel

Carolyn U. Oliphant
Carolyn U. Oliphant
Deputy Counsel

Paid for by Mondale for President, Inc.

8504054 1924

RESPONSE OF MONDALE FOR PRESIDENT
TO SECOND INTERROGATORIES IN
MUR 1641

This constitutes the response of the Mondale for President Committee, Inc.("MPC") to the Commission's interrogatories of September 25, 1984, in MUR 1641. These interrogatories are based on findings that MPC violated the Federal Election Campaign Act by accepting the payment of deposit and installation costs from 53 labor organizations and that these organizations violated the Act by making these payments on behalf of MPC. These findings result from the expansion of this case by the Commission to include an additional 53 unions as respondents who were not named in the original complaint, and against whom there is no evidence to support a finding of a violation of the Act.

This matter was initiated on March 9, 1984, by a complaint filed by Ralph Martin (Bud) Hettinga against MPC and eight labor organizations. The complaint alleged that MPC violated 2 U.S.C. Section 441b(a) by paying less than the normal and usual charge for goods and services. In support of this allegation, NRWC offered a series of newspaper articles that made unsubstantiated allegations that MPC may not be fully reimbursing unions for use of their phone banks and facilities. Some of these articles suggested that MPC did not pay for deposit and installation costs for phones leased. Based on these articles and the responses from MPC and the named unions, the Commission found

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reason to believe that MPC violated Section 441b(a).

Along with its notification to MPC of these findings, the Commission sent interrogatories raising a number of questions concerning the payment of deposit and installation costs. After receipt of the notification and interrogatories MPC submitted a Motion to Reconsider Finding of Reason to Believe. In this Motion, we urged the Commission to reconsider its RTB finding of June 12, 1984, on the grounds that there is no basis for requiring deposit and installation fees to be included in the reimbursement amounts paid for use of labor and corporate telephones. The Commission denied this motion.

MPC responded to the first set of interrogatories, providing the Commission with a list of labor organizations from which MPC leased telephones. Based on these answers alone, the Commission, without further factual development, determined that the 53 labor organizations which MPC named in these responses violated the Act by not charging MPC for deposit and installation costs. The Commission also found that MPC violated Section 441b(a) by accepting the payment of telephone installation and deposit costs from these 53 organizations. It is our position that there is no basis in fact or law for the finding against MPC.

First, while MPC has stated from the outset its position that neither the Act nor regulations require payment of deposit or installation costs, there is no evidence in the record that any of the 53 unions paid such costs on behalf of MPC or indeed, paid them at all. Therefore, there is no evidence that MPC accepted contributions from these organizations.

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Second, even if there were evidence that these payments were made, there is no legal basis for the conclusion that such payments constitute a violation of the Act. The applicable regulation here is 11 C.F.R. Section 114.9. It provides that persons who make use of labor organization facilities for activity in connection with a federal election are required to reimburse that organization in the amount of the normal and usual rental charge for the use of the facilities. 11 C.F.R. Section 100.7(a)(1)(iii)(B) defines the "usual and normal charge" for goods to mean the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution.

As we stated in our Motion to Reconsider on July 31, 1984, the regulations offer no specific guidance on how to calculate reimbursement according to the "market price" definition. Therefore, in the absence of articulated standards in either the Act or regulations, MPC reviewed all other available Commission matters. An examination of Commission opinions and rulings suggests that any method that would reasonably compute the rental value of these items would be acceptable by the Commission. Opinion of Counsel 1976-30. In this opinion, the General Counsel listed a number of factors that are to be included in determining the reimbursement rates for use of union telephones. These factors include charges for office space, utilities, and furniture. Deposit and installation costs however, were not included in the General Counsel's list of reimbursable items. (See also, A.O. 1978-34).

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In MUR 1349, the General Counsel provided the most specific guidance heretofore on this question. In conducting its investigation to determine the value of renting union facilities, OGC considered certain factors such as monthly office space rental rates, monthly telephone charges including any additional charges such as long distance attributable to a campaign and the fair market value of the furniture and machines for the period used. Again, there was no mention of deposit and installation costs. Therefore, it is evident that requiring payment of deposit and installation costs here would require reversal of the Commission's established position on this issue and would constitute a violation of MPC's right to proper notice.

Third, it is our position that MPC is prejudiced by the procedural irregularities underlying the Commission's action in making these findings against the 53 additional unions. Specifically, the Commission's expansion of this matter, without providing any new respondent with an opportunity to demonstrate that no action should be taken, negatively impacts upon MPC. If the unions had been made aware of the factual and legal basis for the finding against them, they would have been able to demonstrate why no action should be brought against them and therefore against MPC. Indeed, these unions may have shown, inter alia, that they are not required to pay any deposit costs because of their status as volume customers and that most installation costs were incurred many years ago.

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(1) In addition to the unions identified in response to the Commission's first set of interrogatories in this matter, to the best of our knowledge MPC leased telephones from the following unions: Ga. State AFL-CIO, Metro Detroit AFL-CIO, Mississippi AFL-CIO, N. Central Indiana AFL-CIO, Ardmore Area Trades & Labor Council, General Drivers, Helpers, and Employees Union, General and Construction Laborers,IUOE, Nashua Firefighters, NEA Kansas, Omaha Federation of Labor, Painter Union, United Mineworkers of America, Wyoming Education Association.*

In addition, it has come to our attention that phones owned by the following labor organization were not actually used by MPC: Brevard County Central Labor Council.

(2) Below is a list of addresses of labor organizations whose phones MPC leased. These addresses come from our disclosure reports. We did not provide the addresses from these reports in response to the Commission's first interrogatories because they are already in the possession of the Commission. At that time we reviewed our use agreements to determine whether MPC possessed any information not already in the possession of the Commission concerning the identification of persons or locations of labor phones leased.

* In order to avoid duplication, local or subordinate bodies, if any, are identified in response to question #2.

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ACTWU
815 16th Street, NW
Washington, DC 20006

Georgia State AFL-CIO
501 Pullman Street, SE
Atlanta, GA 30312

Greater Flint Council AFL-CIO
1214 South Saginaw Street
Flint, MI 48502

Maine AFL-CIO
72 Center Street
P. O. Box 70
Bangor, ME 04412

Metro Detroit AFL-CIO
2550 Grand Blvd. West
Detroit, MI 48208

Mississippi AFL-CIO
P. O. Box 2010
Jackson, MS 39205

New Hampshire AFL-CIO
Box 1305
Portsmouth, NH 03801

North Central Indiana AFL-CIO
2015 Wester Avenue, #209
South Bend, IN 46629

Ohio AFL-CIO
271 East State Street
Cleveland, OH 43215

AFSCME International
1625 L Street, NW
Washington, DC 20036

AFSCME Illinois Council #31
534 South 2nd Street
Springfield, IL 62701

AFSCME Council #93
8 Beacon Street
8th Floor
Boston, MA 02108

AFT
11 Dupont Circle
Washington, DC 20006

8504041930

Ardmore Area Trades & Labor Council
P. O. Box 2418
230 West Main Street, Suite 2
Ardmore, OK 73402

Bakery, etc.
10401 Connecticut Avenue
Kensington, MD 20895

Carpenters #766
Union Center
404 East Main Street
Albert Lea, MN 56007

Carpenters #678
1638 Central
Dubuque, IA 52001

Five River Carpenter District Council
P. O. Box 96
Cedar Rapids, IA 52406

Central Illinois District Council UBCJA
300 NE Perry
Peoria, IL 61602

UBCJA #512
5300 West Michigan Avenue
Ypsilanti, MI 48197

UBCJA #210
35 Pulaski Street
Norwolk, CN 06853

Carpenters Education Program of New Mexico
1615 1/2 - A University Blvd. NE
Albuquerque, NM 87102

Carpenters Local #2279
222 West 9th Street
Lawrence, KS 66044

United Brotherhood of Carpenters
101 Constitution Avenue, NW
Washington, DC 20001

Clark County Classroom Teachers Union
1212 Casino Center
Las Vegas, NV 89104

CWA Local #5800
140 West Vermont Street
Indianapolis, Ind. 46204

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CWA #6010
P. O. Box 247
Tishamingo, OK 73460

CWA #4305
1127 Euclid Avenue, #473
Cleveland, OH 44115

CWA
1925 K Street, NW
Washington, DC 20006

General Drivers, Helpers, and Employees Union #487
Rural Route 9, Box 302
Mankato, MN 56001

General and Construction Laborers Local #1290
2600 Meriam Lane
Kansas City, KS 66106

General Construction Laborers Local #68
404 East Main Street
Albert Lea, MN 56007

Hillsborough Co. Central Library Committee
1701 North Franklin
Tampa, FL 33602

International Brotherhood of Boilermakers
New Brotherhood Building
Kansas City, KS 66101

IBEW
Local 292
Minneapolis, MN 55414

IBEW
Local 304
1231 Eugene Street
Topeka, KS 66608

IBEW
1125 15th Street, NW
Washington, DC 20005

IBEW
Local 252
5300 West Michigan Avenue
Ypsilanti, MI 48197

8504054193 2

IBEW
Local 558
P. O. Box 578
Sheffield, AL 35660

IBEW
Local 668
658 Main Street
Lafayette, IN 47901

IUOE
230 West Main, Suite 2
P. O. Box 2418
Ardmore, OK 73402

IUOE
Local 98
Two Center Square
East Longmeadow, MA 01028

IUOE
New York State Conference
101 Executive Blvd.
Elkmsford, NY 10523

Laborers Local 142
1231 Eugene, Box 8129
Topeka, Kansas 66608

Laborers Local 775
710 Moro
Manhattan, KS 66502

Machinists Non-Partisan Political League
1300 Connecticut Avenue, Room 404
Washington, DC 20036

New Hampshire Education Association
103 North State Street
Concord, NH 03301

Nashua Firefighers
Local 789
22 East Pearl Street
Nashua, NH 03060

NEA-Kansas
713 West 10th Street
Topeka, KS 66612

Omaha Federation of Labor
3929 Harney Street
Suite 3
Omaha, NE 68131

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Painters Local 96
P. O. Box 8129
Topeka, KS 66608

Plumbers & Pipefitters Local #664
228 East McKay
Frontenac, KS 66762

Plumbers & Pipefitters #190
5300 West Michigan Avenue
Ypsilanti, MI 48197

Plumbers & Pipefitters #763
222 West Ninth Street
Lawrence, KS 66044

Roofers Union #70
5300 West Michigan Avenue
Ypsilanti, MI 48198

Trowel Trades Local 14 (IUBAC)
5300 West Michigan Avenue
Ypsilanti, MI 48197

UAW Mass. Cap Council
11 South Road
Farmington, CN 05032

UAW
800 East Jefferson Avenue
Detroit, MI 48214

UAW #450
4589 Sixth Avenue
Des Moines, IA 50309

UFCW
1775 K Street, NW
Washington, DC 20036

UFCW #1092
915 N. E. Davis Street
P. O. Box 14747
Portland, OR 97214-1747

UFCW
Business Manager, Paul Fortune
424 First Avenue South
Fort Dodge, IA 50501

8504054193 4

UFCW P-9
316 NE Fourth Avenue
Austin, MN 55912

UFCW P-6
404 East Main Street
Albert Lea, MN 56007

UFCW P-1161
Box 183
Worthington, MN 56197

United Mineworkers of America
900 15th Street, NW
Washington, DC 20005

United Paperworkers #61
R. F. D. 1
Groverton, NH 03583

United Paperworkers International
815 16th Street, NW
Washington, DC 20006

United Steelworkers of America
Local 2944
District 1
Claremont, NH 03743

USWA #3539
404 East Main
Albert Lea, MN 56007

Washington State Labor Council
2815 Second Avenue
Seattle, WA 98121

Wyoming Education Association
115 East 22nd Street
Chyenne, WY 82001

8504193S

I am treasurer for Mondale for President Committee, Inc. The foregoing answers to interrogatories were prepared with the assistance and advice of counsel for the corporation, upon whom both the corporation and I rely. Although said answers have been made upon information believed to be accurate, the interrogatories request information in forms not regularly maintained by Mondale for President Committee, Inc. Subject to the statements hereinabove set forth:

I declare under penalty of perjury that: I am authorized to sign these responses on behalf of Mondale for President Committee, Inc.; as to the foregoing responses based on information and belief, I believe them to be true and correct; and, as to the foregoing responses based on my personal knowledge, they are true and correct.

Michael S. Berman
Treasurer
Mondale for President Committee, Inc.

8504054 1936

PUBLIC INTEREST COMMUNICATIONS, INC.
282 North Washington Street Falls Church, Virginia 22046 703/237-5200

October 19,1984

Carolyn U. Oliphant
Deputy Counsel
Mondale-Ferraro Committee, Inc
2201 Wisconsin Avenue, NW
Washington, D.C. 20007

Dear Ms. Oliphant:

My name is Ken Whitaker and I am Vice-president of Public Interest Communications, a telemarketing firm. We provide phoning services for a variety of clients.

The portion of our charge to customers which covers the use of the telephone lines and equipment is calculated in the following manner. For the costs of the telephones, our clients are normally billed for the percentage of the monthly charges for the lines which are attributable to their use. In addition, they are charged for all actual long distance charges incurred. Our reimbursable overhead charges do not include a component for deposit or installation costs. We do not charge for the installlation costs because they are a one time expense and therefore are not considered as a continuing overhead item.

Our overhead charge includes a percentage of utility costs and rent relating to the length of time our phones are used. The only additional charges are for the personnel which we might provide to supervise and make the phone calls.

Sincerely,

Kenneth G. Whitaker

KGW/jc

8504193 7

OGC# 5223

OFFICE OF GENERAL COUNSEL
NATIONAL EDUCATION ASSOCIATION
1201 Sixteenth Street, N.W.
Washington, D.C. 20036
(202) 822-7035

RECEIVED
GENERAL COUNSEL
84 OCT 19 P2:20

DATE: October 19, 1984

TO: Maura White

FROM: JOY L. KOLETSKY
Staff Counsel

RE: MUR 1641

Per our conversation today, I have enclosed Designation of Counsel statements in the above matter on behalf of the Burlington County Education Association, the Massachusetts Teachers Association, and MEA-NEA, Local 1.

Joy Koletsky

8 5 0 4 0 5 4 1 9 3 8

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Robert H. Chanin, General Counsel

ADDRESS: National Education Association
1201 Sixteenth St., N.W.
Washington, D.C. 20036

TELEPHONE: 202-822-7035

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

Oct 19, 1984
Date

Angela M. Bertolino
by Joy Koletsky
Signature

RESPONDENT'S NAME: Angela M. Bertolino/Burlington County Education Association

ADDRESS: East Ridge Plaza Beverly-Rancocas Road
Willingboro NJ 08046

HOME PHONE: 609-939-0914

BUSINESS PHONE: 609-871-2232

8504041939

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Bob Chanin

ADDRESS: National Education Association
1201 16th St., N.W.
Washington, DC 20036

TELEPHONE: (202) 833-4000

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

10-3-84
Date

Richard A. Flynn
Signature

RESPONDENT'S NAME: Richard A. Flynn

ADDRESS: 37 Crocker Boulevard
Mt. Clemens, MI 48043

HOME PHONE: (313) 939-9648

BUSINESS PHONE: (313) 469-7632

8504054019 40

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Robert H. Chanin, General Counsel

ADDRESS: National Education Association
1201 Sixteenth St., N.W.
Washington, D.C. 20036

TELEPHONE: 202-822-7035

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

10/15/84
Date

Edward P. Sullivan
Signature

RESPONDENT'S NAME: Massachusetts Teachers Associaiton

ADDRESS: 20 Ashburton Place
Boston, Mass. 02108

HOME PHONE:

BUSINESS PHONE: 617-742-7950

3504054194 1

8504054 1942

NATIONAL EDUCATION ASSOCIATION
OF THE UNITED STATES
1201 Sixteenth Street, N. W.
Washington, D. C. 20036

OFFICE OF GENERAL COUNSEL
NATIONAL EDUCATION ASSOCIATION

TO:
Ms. Maura White
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM TO: M White

FROM: Barbara A. Jonson
Docket Clerk

SUBJECT: Returned Letters

DATE: 10/18/84

The following letter MUR 1641 was returned. Please write a memo to the file and advise on what to do. If you wish to resend the letter, please have the envelope(s) and green card(s) made.

Thanks

Please remail the attached letter to:

P.O. Box 461
Clinton, Iowa 52737

8304045

WASHINGTON, DC 20463
OFFICIAL BUSINESS

POSTAGE & FEES PAID
FEC
WASHINGTON, D.C.
PERMIT NO. G-31

CLAIM CHECK NO.
247239

☐ HOLD

DATE
9/29/84
1ST NOTICE
10-4
2ND NOTICE
10-14
RETURN

Detached from
PS Form 3849—A
Oct. 1980

Steve Schwarz, County Coordinator
Clinton Labor Congress, AFL-CIO
c/o Ronald Rimley
267 - 20th Avenue, North
Clinton, Iowa 52732

CERTIFIED
#943595

8504054194

FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463
OFFICIAL BUSINESS

8504054 1945

CLAIM CHECK NO.
247239
☐ HOLD
DATE
9/29/84
1ST NOTICE
10-4
2ND NOTICE
10-14
RETURN

Detached from PS Form 3849—A Oct. 1980

RETURNED TO SENDER
Retention Period Expired
UNCLAIMED
Clinton, IA 52732

Steve Schwarz, County Coordinator
Clinton Labor Congress, AFL-CIO
c/o Ronald Rimley
267 - 20th Avenue, North
Clinton, Iowa 52732

CERTIFIED

GCC# 5191

LAW OFFICES
O'DONOGHUE & O'DONOGHUE

MARTIN F. O'DONOGHUE (1902-1973)
PATRICK C. O'DONOGHUE (1930-1979)
DONALD J. CAPUANO
JAMES R. O'CONNELL *
ROBERT MATISOFF **
JOYCE A. MADER †
SALLY M. ARMSTRONG
BRIAN A. POWERS
JOHN L. BOHMAN
PETER J. BIERSTEKER
JOSEPH P. BOYLE ‡
FRANCIS J. MARTORANA

* D.C., MD. & VA.
** D.C. & VA.
† D.C. & PA.
‡ MD. & PA.

WASHINGTON, D.C. OFFICE
4748 WISCONSIN AVENUE, N.W.
WASHINGTON, D. C. 20016
(202) 362-0041

MARYLAND OFFICE
9 NORTH ADAMS STREET
ROCKVILLE, MD. 20850
(301) 251-0920

RECEIVED
FEC
SECRETARY
84 OCT 17 A10:49

RECEIVED
FEC
GENERAL COUNSEL
OCT 17 A11:56

October 16, 1984

Lee Ann Elliott
Chairman
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1641

Dear Chairman Elliott:

With respect to this Matter Under Review, this office shall be representing Local 190 of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of Ypsilanti, Michigan.

In a letter dated September 26, 1984, you advised Local 190 that the Commission had reason to believe that the Local violated 2 USC §441b(a). Accompanying the letter to Local 190 was an order to submit written answers to certain interrogatories.

I have been advised informally that because of a procedural defect with respect to your September 26, 1984 letter, a second letter will be sent to Local 190 concerning the same matter. For that reason, we plan not to respond substantively to your September 26 letter and to the accompanying interrogatories but to await receipt of the second letter and to respond at that time. If my information is incorrect or if what I am proposing is improper, please advise.

I do wish to point out at this time, however, that while Local 190 did enter into an arrangement with the Mondale for President Committee, Inc., for use of the Local's telephones,

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these were not telephones installed specially for that purpose but were, instead, the Local's regular telephones, installed approximately two years ago. In view of this fact, it would appear that interrogatories concerned with installation and deposit costs are not relevant in Local 190's case and that there is no basis for any further proceedings with respect to this matter. Thus, there is probably no need at all for a second letter to Local 190 and for any further proceedings in connection with this matter.

If you have any questions concerning this matter, please contact the undersigned.

Very truly yours,

Robert Matisoff

RM;man
CC: Bruce Towler

8504054119 47

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

William C. Oldaker, Esquire
Epstein, Becker, Borsody and Green
1140 - 19th Street, N.W.
Suite 900
Washington, D.C. 20036

Re: MUR 1641

Dear Mr. Oldaker:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the American Federation of Teachers ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504054198

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

David Renfro, President
American Federation of Teachers, Local 2309
1524 Linwood
Oklahoma City, Oklahoma 73106

Re: MUR 1641

Dear Mr. Renfro:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the American Federation of Teachers, Local 2309 ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504054949

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Joan A. Buckley, Director of Organization
Massachusetts Federation of Teachers
296 Boylston
Boston, Massachusetts 02116

Re: MUR 1641

Dear Ms. Buckley:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the Massachusetts Federation of Teachers ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Dan A. Beauregard, President
CWA, Local 1365
Box 68
North Andover, Massachusetts 01845

Re: MUR 1641

Dear Mr. Beauregard:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the CWA, Local 1365 ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504051

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Randy L. Sanders, President
CWA, Local 6010
P.O. Box 247
Tishomingo, Oklahoma 73460

Re: MUR 1641

Dear Mr. Sanders:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the CWA, Local 6010 ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504041952

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Rick Flynn, President
MEA-NEA, Local 1
37 Crocker Boulevard
Mt. Clemens, Michigan 48043

Re: MUR 1641

Dear Mr. Flynn:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the MEA-NEA, Local 1 ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504041953

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Edward P. Sullivan
Executive Director
Massachusetts Teachers Association
28 Ashburton Place
Boston, Massachusetts 02108

Re: MUR 1641

Dear Mr. Sullivan:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the Massachusetts Teachers Association ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504054195 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Carroll P. St. Peter, President
Bakery, Confectionary and Tobacco Workers Union,
Local 275
154 State Street
Presque Isle, Maine 04769

Re: MUR 1641

Dear Mr. St. Peter:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the Bakery, Confectionary and Tobacco Workers Union, Local 275 ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504054195

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

William Darryl Barber
United Union of Roofers, Waterproofers and
Allied Workers, Local 70
5300 West Michigan Avenue
Ypsilanti, Michigan 48197

Re: MUR 1641

Dear Mr. Barber:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the United Union of Roofers, Waterproofers and Allied Workers, Local 70 ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504041956

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Leonard L. Davis, President
Quad Cities Federation of Labor
P.O. Box 1116
Rock Island, Illinois 61201

Re: MUR 1641

Dear Mr. Davis:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the Quad Cities Federation of Labor ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504019 57

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Frank Michelfelder, Business Manager
International Brotherhood of Electrical
Workers, Local 252
5300 West Michigan Avenue
Ypsilanti, Michigan 48197

Re: MUR 1641

Dear Mr. Michelfelder:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the International Brotherhood of Electrical Workers, Local 252 ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

3504054138

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Angel M. Bertolino, President
Burlington County Education Association
East Ridge Plaza
Beverly Rancocas Road
Willingboro, New Jersey 08406

Re: MUR 1641

Dear Mr. Bertolino:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the Burlington County Education Association ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504041959

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Martin J. Fitzpatrick, Business Manager
IBEW, Local 2320
46 - 3rd Street
Manchester, New Hampshire 03102

Re: MUR 1641

Dear Mr. Fitzpatrick:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the IBEW, Local 2320 ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504041960

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C 20463

October 17, 1984

James L. Floyd, Business Representative
United Brotherhood of Carpenters and Joiners
of America, Local 678
1638 Central
Dubuque, Iowa 52001

Re: MUR 1641

Dear Mr. Floyd:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the United Brotherhood of Carpenters and Joiners of America, Local 678 ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504196

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

John Martin, Business Manager
United Brotherhood of Carpenters and Joiners
of America, Local 512
5300 West Michigan Avenue
Ypsilanti, Michigan 48197

Re: MUR 1641

Dear Mr. Martin:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the United Brotherhood of Carpenters and Joiners of America, Local 512 ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

3504054196 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Michael Hoiseth, Business Representative
United Brotherhood of Carpenters and
Joiners of America, Local 766
404 East Main Street
Albert Lea, Minnesota 55414

Re: MUR 1641

Dear Mr. Hoiseth:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the United Brotherhood of Carpenters and Joiners of America, Local 766 ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504041963

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

George R. Zastrow, President
United Brotherhood of Carpenters and Joiners
of America, Local 7
312 Central Avenue
Minneapolis, Minnesota 55414

Re: MUR 1641

Dear Mr. Zastrow:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the United Brotherhood of Carpenters and Joiners of America, Local 7 ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

3504054196 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Roy L. Hawkins, President
Muskogee and Vicinity Central Labor Council
100 N. York Street
Muskogee, Oklahoma 74401

Re: MUR 1641

Dear Mr. Hawkins:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the Muskogee and Vicinity Central Labor Council ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

3504041965

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C 20463

October 17, 1984

Jerry A. Kearns
Keokuk Labor Fraternal Council
Labor Temple
30 Blondeau
Keokok, Iowa 52632

Re: MUR 1641

Dear Mr. Kearns:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the Keokuk Labor Fraternal Council ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504196

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Donald J. Frost, President
Black Hawk Labor Temple Corp.
1695 Burton Avenue
Waterloo, Iowa 50703

Re: MUR 1641

Dear Mr. Frost:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the Black Hawk Labor Temple Corp. ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504041967

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C 20463

October 17, 1984

Edward Wendel, Assistant General Counsel
UFCW
1775 K Street, N.W.
Washington, D.C. 20006

Re: MUR 1641

Dear Mr. Wendel:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the UFCW ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504041968

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Derby G. Olsen, President
UFCW, Local 6
404 East Main Street
Albert Lea, Minnesota 56007

Re: MUR 1641

Dear Mr. Olsen:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the UFCW, Local 6 ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504041969

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C 20463

October 17, 1984

Max V. Graham, President
UFCW, Local 47-P
5418 South 27th Street
Omaha, Nebraska 68107

Re: MUR 1641

Dear Mr. Graham:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the UFCW, Local 47-P ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504041970

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Sean Harrigan, President
UFCW, Local 1439
Box 5298
Spokane, Washington 99205

Re: MUR 1641

Dear Mr. Harrigan:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the UFCW, Local 1439 ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504041971

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Steve Schwarz, County Coordinator
Clinton Labor Congress, AFL-CIO
c/o Ronald Rimley
267 - 20th Avenue, North
Clinton, Iowa 52732

Re: MUR 1641

Dear Mr. Schwarz:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the Clinton Labor Congress, AFL-CIO ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: /Kenneth A. Gross
Associate General Counsel

Enclosures

8504041972

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

James W. Vick
IBEW, Local 405
1211 Wily Boulevard SW
Cedar Rapids, Iowa 52404

Re: MUR 1641

Dear Mr. Vick:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the IBEW, Local 405 ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504041973

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Owen Schleisman, Business Manager
IBEW, Local 292
312 Central Avenue S.E.
Minneapolis, Minnesota 55414

Re: MUR 1641

Dear Mr. Schleisman:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the IBEW, Local 292 ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504034197

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Buck Jackson, Business Manager
Hotel, Hospital, Restaurant and Tavern
Employees, Local 21
Box 847
Rochester, Minnesota 55903

Re: MUR 1641

Dear Mr. Jackson:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the Hotel, Hospital, Restaurant and Tavern Employees, Local 21 ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504054197 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C 20463

October 17, 1984

Richard D. Hagen, President
United Steelworkers of America, Local 3539
404 East Main
Albert Lea, Minnesota 56007

Re: MUR 1641

Dear Mr. Hagen:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the United Steelworkers of America, Local 3539 ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504041976

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Edward Ferrar, President
Andy Meyers, Regional Coordinator
UPIU, Local 75
P.O. Box G
Berlin, New Hampshire 02570

Re: MUR 1641

Dear Mr. Ferrar and Mr. Meyers:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the UPIU, Local 75 ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504041977

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Wilbur V. Barnett, President
UPIU, Local 61
RFD #1
Groveton, New Hampshire 03582

Re: MUR 1641

Dear Mr. Barnett:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the UPIU, Local 61 ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504041973

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Douglas D. Smith, Chairman
Muskingan County UAW, CAP Council
490 Western
Muskigan, Ohio 49440

Re: MUR 1641

Dear Mr. Smith:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the Muskingan County UAW, CAP Council ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504041979

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Charles Chandler, President
UAW, Local 442
820 James
Webster City,. Iowa 50595

Re: MUR 1641

Dear Mr. Chandler:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the UAW, Local 442 ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504041930

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Chris Giunchigliani, President
Clark County Classroom Teachers Association
1212 Casino Center
Las Vegas, Nevada 89104

Re: MUR 1641

Dear Mr. Giunchigliani:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the Clark County Classroom Teachers Association ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

3504054198

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Richard L. Johnson, Secretary-Treasurer
Wayne Huntsman, President
UFCW, Local 71
Route 2, Box 40
Jefferson, South Dakota 57038

Re: MUR 1641

Dear Mr. Johnson and Mr. Huntsman:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the UFCW, Local 71 ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504019832

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Berle M. Chaplin, Financial Secretary
Ken Abbas, Assistant Financial Representative
UFCW, Local 1169
Box 373
Hubbard, Iowa 50122

Re: MUR 1641

Dear Mr. Chaplin and Mr. Abbas:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the UFCW, Local 1169 ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504051983

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Paul Fortune
Jack Dorman
UFCW, Local 31P
424 - 1st Avenue South
Fort Dodge, Iowa 50501

Re: MUR 1641

Dear Mr. Fortune and Mr. Dorman:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the UFCW, Local 31P ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504041

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Chaplin Cook, Secretary/Treasurer
Greater Flint AFL-CIO Council
Box 825
Flint, Michigan 48501

Re: MUR 1641

Dear Mr. Cook:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the Greater Flint AFL-CIO Council ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504019

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C 20463

October 17, 1984

Charles W. Jones, International President
International Brotherhood of Boilermakers,
Iron Ship Builders, Blacksmiths, Forgers
and Helpers
New Brotherhood Building
Kansas City, Kansas 66101

Re: MUR 1641

Dear Mr. Jones:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504054 1986

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Charles O'Leary, President
Maine AFL-CIO
72 Center Street
Box 70
Brewer, Maine 04412

Re: MUR 1641

Dear Mr. O'Leary:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the Maine AFL-CIO ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504041987

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Lawrence Kenney, Secretary/Treasurer
Washington State Labor Council
2815 Second Avenue
Seattle, Washington 98121

Re: MUR 1641

Dear Mr. Kenney:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the Washington State Labor Council ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504041988

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Milan Marsh, President
Jack Reihl, Secretary/Treasurer
Ohio AFL-CIO
271 E. State Street
Cleveland, Ohio 43215

Re: MUR 1641

Dear Mr. Marsh and Mr. Reihl:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the Ohio AFL-CIO ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504054 1989

FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

October 17, 1984

Larry P. Weinberg, Esquire
Kirscher, Weinberg, Dempsey, Walters & Willig
Suite 800
1100 - 17th Street, N.W.
Washington, D.C. 20036

Re: MUR 1641

Dear Mr. Weinberg:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the AFSCME District Council 037, Local 372 ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504054190

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Bruce Towler, Business Manager
United Association of Journeymen and
Apprentices of the Plumbing and Pipe Fitting
Industry of the U.S. and Canada, Local 190
5300 West Michigan Avenue
Ypsilanti, Michigan 48197

Re: MUR 1641

Dear Mr. Towler:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the U.S. and Canada, Local 190 ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504041961

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Alden G. Boardman, President
United Steelworkers of America, Local 2944
24 Main Street
Claremont, New Hampshire 03743

Re: MUR 1641

Dear Mr. Boardman:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the United Steelworkers of America, Local 2944 ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

3504041992

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Donald Early, Business Manager
Minneapolis Building Trades Council
312 Central Avenue
Room 556
Minneapolis, Minnesota 55414

Re: MUR 1641

Dear Mr. Early:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the Minneapolis Building Trades Council ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

3504054 1993

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Sam Palazzolo, Business Manager
Trowel Trades, Local 14
International Brotherhood of Bricklayers and
Allied Craftsman
5300 West Michigan Avenue
Ypsilanti, Michigan 48197

Re: MUR 1641

Dear Mr. Palazzolo:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the Trowel Trades, Local 14 ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504041994

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Henry Martin, Chief Steward
UFCW, Local 1161
Box 183
Worthington, Minnesota 56187

Re: MUR 1641

Dear Mr. Martin:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the UFCW, Local 1161 ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504041995

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

CWA, Local 4305
c/o Keith Estes, Vice-President
1127 Euclid Avenue, #473
Cleveland, Ohio 44115

Re: MUR 1641

Dear Mr. Estes:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the CWA, Local 4305 ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504041995

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Hillsborough County Central Labor Council
1701 North Franklin Street
Tampa, Florida 33602

Re: MUR 1641

Dear Sir or Madam:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the Hillsborough County Central Labor Council ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504054 1997

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C 20463

October 17, 1984

Charles L. Bell, President
Brevard County Central Labor Council
P.O. Box 3787
Cocoa, Florida 32922

Re: MUR 1641

Dear Mr. Bell:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the Brevard County Central Labor Council ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504041998

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Angelo Fosco, President
Laborers International Union of North America
905 - 16th Street, N.W.
Washington, D.C. 20006

Re: MUR 1641

Dear Mr. Fosco:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the Laborers International Union of North America ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504051999

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

John W. Schmitt, President
Wisconsin AFL-CIO
6333 W. Bluemound Road
Milwaukee, Wisconsin 53213

Re: MUR 1641

Dear Mr. Schmitt:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the Wisconsin AFL-CIO ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

8504054200

RECEIVED BY THE FEC
GLC#5193
84 OCT 17 AM : 50

SIGAL AND MILLER
ATTORNEYS AT LAW
1208 PLYMOUTH BUILDING
MINNEAPOLIS, MINNESOTA 55402-1380

SAMUEL I. SIGAL
RICHARD A. MILLER
THOMAS G. HARRIGAN

TELEPHONE
(612) 333-5831

October
Tenth
1 9 8 4

82:2d 11:30 84 OCT 17
CERTIFIED
GENERAL COUNSEL
TESTING

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Laura White
Office of the General Counsel
Federal Election Campaign Commission
1325 K Street N. W.
Washington, D. C. 20463

Dear Ms. White:

Re: MUR 1641

This office represents the Minneapolis Building and Construction Trades Council. We have been asked to respond to your letter of September 26, 1984. We are enclosing an executed Statement of Designation of Counsel.

We have thoroughly reviewed the allegations contained in your letter to the effect that the Minneapolis Building and Construction Trades Council "incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities." These allegations are completely false and totally unfounded.

The Minneapolis Building and Construction Trades Council has not installed any phones, nor have they paid any deposit costs related to telephones used by, for, or on behalf of the Mondale for President Committee. The labor organization has leased its telephones to the Mondale for President Committee. The lease agreement did not, however, provide for the installation of any new telephones or for any new telephones to be installed for the use of the Mondale for President Committee.

If you have any facts to the contrary, please describe these facts in detail and set forth the source of these facts.

Very truly yours,

SIGAL AND MILLER

By Richard A. Miller

RAM:ao
cc. Mr. Don Early

8504054200 1

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: RICHARD A. MILLER

ADDRESS: SIGAL AND MILLER
1208 Plymouth Building
Minneapolis, Minnesota 55402-1529

TELEPHONE: (612) 333-5831

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

October 10, 1984
Date

Donald Early
Signature

RESPONDENT'S NAME: MINNEAPOLIS BUILDING AND CONSTRUCTION TRADES COUNCIL

ADDRESS: 312 Central Avenue, Room 556
Minneapolis, Minnesota 55414

HOME PHONE:

BUSINESS PHONE: (612) 379-4234

8504054200 2

SIGAL AND MILLER
ATTORNEYS AT LAW
[illegible] PLYMOUTH BUILDING
[illegible]APOLIS, MINNESOTA [illegible]

P 721 722 103

CERTIFIED MAIL

Return Receipt Requested

Ms. Laura White
Office of the General Counsel
Federal Election Campaign Commission
1325 K Street, N.W.
Washington, D. C. 10463

84 OCT 12 AM 8:

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 1641
Clark County Classroom Teachers Association, et. al.	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on October 15, 1984, the Commission approved by a vote of 6-0 the sample letter and General Counsel's Factual and Legal Analysis to be mailed to 53 labor unions, as submitted with the Memorandum to the Commission dated October 10, 1984.

Commissioners Aikens, Elliott, Harris, McDonald, McGarry and Reiche voted affirmatively in this matter.

Attest:

10-15-84
Date

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

Received in Office of Commission Secretary: 10-10-84, 2:39
Circulated on 48 hour tally basis: 10-11-84, 11:00

8504054200 4

RECEIVED AT THE FEC
GCC#5167
84 OCT 16 P1:06

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Edward Wendel, Assistant General Counsel

ADDRESS: UFCW International Union
1775 K Street NW
Washington, DC 20006

TELEPHONE: (202) 223-3111

84 OCT 16 A10:06
OFFICE OF GENERAL COUNSEL

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

10-12-84
Date

Signature

RESPONDENT'S NAME: Sean Harrigan, President

ADDRESS: United Food and Commercial Workers Union Local 1439
N. 1719 Atlantic, P. O. Box 5298
Spokane, WA 99205

HOME PHONE:

BUSINESS PHONE: (509) 328-6090

3504054200 5

UNITED FOOD & COMMERCIAL
WORKERS UNION LOCAL 1439
P. O. BOX 5298
SPOKANE, WA 99205

RECEIVED AT THE FE
SPOKANE
84 OCT 15
WASH.
POSTAGE METER
6003831

Federal Election Commission

Washington, DC 20463

850404200

MUR 2177

LAW OFFICES

TUVESON, GOLDMAN & NELSON, CHARTERED

146 WEST CLARK
P.O. BOX 1009
ALBERT LEA, MINNESOTA 56007
Telephone (507) 373-1409

ROBERT C. TUVESON
BOB A. GOLDMAN
CRAIG S. NELSON
THOMAS M. CARY

AREA OFFICES:

BOX 246
ALDEN, MINN. 56009
Telephone 874-3649

BOX 371
NEW RICHLAND, MINN. 56072
Telephone 465-3350

RECEIVED
FEC
SECRETARY
84 OCT 16 P12:15

October 12, 1984

RECEIVED
OFFICE OF
GENERAL COUNSEL
84 OCT 16 P5:00

Ms. LeeAnn Elliott
Federal Election Commission
Washington, D.C. 20463

Re: Carpenters Local 766

Dear Ms. Elliott:

I enclose herewith the Answer to Interrogatories signed by Michael Hoiseth as Business Agent for Carpenters Union Local 766.

Sincerely,

Bob Goldman

BOB A. GOLDMAN
BAG:pj
Encs.

8504207

FEDERAL ELECTION COMMISSION

In the Matter of: MUR 1641

ANSWERS TO INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

ANSWER: Yes

2. If the answer to question 1 is yes, state:

A. the dates of such use by MPC;
ANSWER: February 8, 11, 12, 15 and 18th, 1984.

B. the location of the telephones used;
ANSWER: 404 E. Main, Albert Lea, Minnesota

C. the total amount of time the telephones were used by MPC; and,
ANSWER: estimated 12 hours

D. the number of telephones used by MPC.
ANSWER: One

3. If the answer to question 1 is yes, state:

A. the date that each of the telephones used by MPC were installed;
ANSWER: Not applicable

B. the cost of the installations;
ANSWER: Not applicable

C. the purpose of the installations;
ANSWER: Not applicable

D. whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
ANSWER: No

8504054200 8

E. the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC, and,
ANSWER: Not applicable

F. the amount for which the labor organization billed MPC for any portion of the telehpone installation or deposit costs.
ANSWER: $143.56.

The MPC Committee used the regular telepone of Local 766 during the non-business hours. There was only one telephone used. There was no special installation or special service installed. The MPC has been billed the full amount of the costs of using the said telephone.

DATED: October 12 , 1984

Michael Hoiseth, Business Agent
Carpenters Union Local 766

Sworn to and subscribed before me this 12th day of October, 1984.

Notary Public

PATRICIA A. JOHNSON
NOTARY PUBLIC—MINNESOTA
FREEBORN COUNTY
MY COMM. EXP. JAN. 7, 1989

8504054200 9

LAW OFFICES
SON, GOLDMAN & NELSON, CHARTERED
146 WEST CLARK
P.O. BOX 1009
ALBERT LEA, MINNESOTA 56007

MANKATO, MN 560
PM
12 OCT
1984

Ms. LeeAnn Elliott
Federal Election Commission
Washington, D.C. 20463

84 OCT 15 P1:0

FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM TO: M. White

FROM: Barbara A. Jonson
Docket Clerk

SUBJECT: Returned Letters

DATE: ~~2/6/84~~

The following letter MUR 1641 was returned. Please write a memo to the file and advise on what to do. If you wish to resend the letter, please have the envelope(s) and green card(s) made.

Thanks!

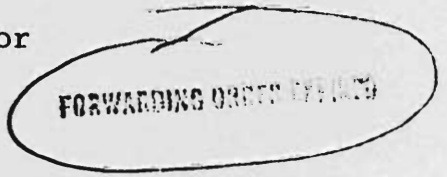
bj

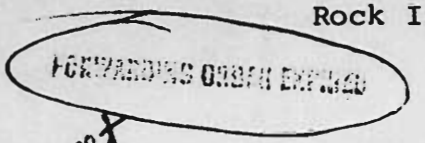
Please remail to
311 1/2 21st Street
Rock Island, IL
61201

8504010

FEC
WASHINGTON, D.C
PERMIT NO. G-31

Leonard L. Davis, President
Quad Cities Federation of Labor
P.O. Box 1116
Rock Island, Illinois 61201





CERTIFIED
#943601

311 1/2 21st Street
Rock Island
61201

8504054201 2

FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463
OFFICIAL BUSINESS

8504054201 3

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WASHINGTON, D.C.
PERMIT NO. G-31

RETURNED TO SENDER
DO NOT REMAIL IN THIS ENVELOPE
FORWARDING ORDER EXPIRED

ROCK ISLAND
OCT 1
ILL.

Leonard L. Davis, President
Quad Cities Federation of Labor
P.O. Box 1116
Rock Island, Illinois 61201

FORWARDING ORDER EXPIRED

FORWARDING ORDER EXPIRED

CERTIFIED
#943601

RECEIVED AT THE FEC
GCC #5148
84 OCT 15 AM : 41

United Steelworkers of America

AFL-CIO-CLC

ONE EAST WACKER DRIVE
SUITE 1910
CHICAGO, ILLINOIS 60601-1980
(312) 467-1995

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
84 OCT 15 P 1:08

October 11, 1984

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

Attention: Maura White

Re: MUR 1641
Mondale for President Committee

Dear Ms. White:

This will confirm our October 9, 1984 telephone conversation concerning this matter.

On October 8, 1984 I received copies of two letters from Federal Election Commission Chairman Lee Ann Elliott, dated September 26, 1984 and addressed to Alden Boardman, as President of United Steelworkers of America, Local Union 2944 in Claremont, New Hampshire, and to Richard Hagen, as President of United Steelworkers of America Local Union 3539 in Albert Lea, Minnesota. Each letter advised the respective local union that the Federal Election Commission recently had found reason to believe that the local unions violated 2 U.S.C. § 441b(a) and that the basis of the FEC finding was an analysis by the General Counsel of the FEC that the local union in each case incurred the total installation and deposit costs of telephones used by the Mondale for President Campaign Committee at the local union's office facilities.

Local Union Presidents Boardman and Hagen, on October 8, 1984, each mailed to you statements of designation of counsel authorizing me to receive any notifications or other communications from the Federal Election Commission and to act on behalf of the local unions.

You advised me that the ten-day time limit for submission by each of these two local unions to the Federal Election Commission of statements of position or other information in response to FEC Chairman Elliott's September 26, 1984 letter should be considered

8504201 4

PRINTED IN U.S.A.

Federal Election Commission
Attention: Maura White

October 11, 1984

to be extended to ten days following the receipt by each of the local unions of a letter issued on October 8, 1984. My understanding is that the purpose of that second letter to respondent unions is to provide them with copies of the complaint and of the FEC General Counsel's factual analysis of the issues.

I would appreciate it if you would send me copies of the second letters being sent to the Steelworker local unions, a copy of the complaint on the basis of which this matter was initiated and a copy of the FEC General Counsel's analysis to which FEC Chairman Lee Ann Elliott refers in the first paragraph of her September 26, 1984 letter to the local unions.

Very truly yours,

William H. Schmelling
Assistant General Counsel

WHS/am

cc: Alden G. Boardman, President Local Union 2944, USWA
Richard Hagen, President Local Union 3539, USWA
William J. Foley, Director, USWA District 1
Eldon D. Kirsch, Director, USWA District 33
Bernard Kleiman, General Counsel, USWA

3504013

United Steelworkers of America
AFL-CIO-CLC
ONE EAST WACKER DRIVE
SUITE 1910
CHICAGO, ILLINOIS 60601
PRINTED IN U.S.A.

CHICAGO, IL OCT 11 -PM 1984 606

USA 20c

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

Attention: Maura White

84 OCT 15 AM 11:40

RECEIVED AT THE FEC
MAR 16 41 GCC#S190

October 8, 1984

84 OCT 17 A10:20

Dear Marjorie

Please be advised that the Bakery, Confectionary and Tobacco Workers Union Local 275 came to a stand still on October 12, 1983 and as of 16 December 1983 Closed its doors as it had no employees to represent. AKF Foods went out of business.

I retained the title of Business Agent only because it is in the By-Laws of the International Union.

Now as for information that was asked for. Question #1 is yes. I was directed to permite the MPC to use the BCTW office. The office telephones were not used by the Mondale for President Committee as the AFL-CIO out of Bangor Maine had telephones installed. Question #2 (a) a few days in Feb and March of 1984 the

8504054201 7

8504054201 8

exact day's I do not remember.

2(b) Location of telephones installed
154 State St Presque Isle Me. 04769.

2(c) total time is unknown

2(d) total telephones was 5.

Question #3

3(a) the exact date is unkown but it was in Feb of 1984.

3(b) the cost of the installation was billed to the International Union 10401 CONNECTICUT AVENUE, KENSINGTON, MD. 20895.

3(c) The telephones were used to make local calls to democrate People.

3(d) MPC had asked me about putting phones in our closed office I told them that I'd check with the International Union I did and it was okayed.

3(e) No money for deposits were used.

3(f) This question I can't answer I do not know the answer.

The above answeres are true and to the best of my ability correct.

Carroll P. Carter

Carroll P. St Peter
RFD 4 Madawaska RD.
Caribou, Maine 04736

BANGOR, ME 04401
PM
9 OCT
1984

ALWAYS
USE ZIP C
USA
20

Federal Election Commission
1325 K ST N.W.
Washington, Dc. 20463

8504051201

RECEIVED AT THE FEC
GCC#5146
84 OCT [illegible] AM: [illegible]

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: William Schmelling

ADDRESS: One East Wacker Dr.
Room 1910
Chicago, Illinois 60601

TELEPHONE: 312-467-1995

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

Oct. 1-1984
Date

Richard D. Hagen
Signature

RESPONDENT'S NAME: U.S.W.A. # 3539

ADDRESS: 404 East Main
Albert Lea, Minn. 56007

HOME PHONE: 507-373-8362

BUSINESS PHONE: 507-373-5938

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
OCT 15 P 1:06

8504054202O

D STEELWORKERS OF AMERICA
Local 3539
404 East Main
bert Lea, Minnesota 56007

8504054200

Federal Election Comm.
Washington D.C.
20463

84 OCT 15 AM 8:58
AT THE FEC

MUR 1641

LAW OFFICES

TUVESON, GOLDMAN & NELSON, CHARTERED

146 WEST CLARK
P.O. BOX 1009
ALBERT LEA, MINNESOTA 56007
Telephone (507) 874-1861

ROBERT C. TUVESON
BOB A. GOLDMAN
CRAIG S. NELSON
THOMAS M. CARY

AREA OFFICES:

BOX 246
ALDEN, MINN. 56009
Telephone 874-3849

BOX 371
NEW RICHLAND, MINN. 56072
Telephone 465-3360

RECEIVED
OFFICE OF THE SECRETARY
COMMISSION
1984 OCT 15 A10:40

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
1984 OCT 15 P2:15

October 8, 1984

Ms. LeeAnn Elliott
Federal Election Commission
Washington, D.C. 20463

Re: Carpenters Local 766

Dear Ms. Elliott:

I enclose the Statement of Designation of Counsel for Carpenters Local 766. I will be submitting to you in the next day or so answers to the questions you have submitted. Essentially, the Federal Election Commission Decision is based upon an incorrect set of facts. No installation was ever made for telephones.

Sincerely,

BOB A. GOLDMAN
BAG:pj
Encs.

8504054202

STATEMENT OF DESIGNATION OF COUNSEL

MUR _____

NAME OF COUNSEL: Bob A. Goldman

ADDRESS: 146 W. Clark St. - P.O. Box 1009
Albert Lea, Minnesota
56007

TELEPHONE: (507)373-1409

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

October 8, 1984
Date

Michael Hoiseth
Signature - Michael Hoiseth

RESPONDENT'S NAME: Michael Hoiseth, Business Representative

ADDRESS: United Brotherhood of Carpenters and
Joiners of America, Local 766
404 E. Main Street, Albert Lea, Minnesota 56007

HOME PHONE: (507)373-9695

BUSINESS PHONE: (507)373-0666

8504054202 3

LAW OFFICES
ON, GOLDMAN & NELSON, CHARTERED
146 WEST CLARK
P O. BOX 1009
ALBERT LEA, MINNESOTA 56007

8504054200

ALBERT LEA, MN
OCT 9
AM
1984
56007

Ms. LeeAnn Elliott
Federal Election Commission
Washington, D.C. 20463

84 OCT 12 AM 8:12

GCC#5119

LEGAL SERVICES
OFFICE OF GENERAL COUNSEL

NATIONAL EDUCATION ASSOCIATION • 1201 16th St., N.W., Washington, D C 20036 • (202) 822-7035

MARY HATWOOD FUTRELL, President
KEITH GEIGER, Vice President
ROXANNE E. BRADSHAW, Secretary-Treasurer

DON CAMERON, Executive Director

October 12, 1984

RECEIVED
FEDERAL ELECTION COMMISSION
GENERAL COUNSEL
84 OCT 12 P4:21

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

Re: MUR 1641

Dear Ms. White:

This is to confirm our telephone conversations of October 5 and 9, 1984 in which you indicated that the Commission is sending a more detailed analysis of the violations alleged against affiliates of the National Education Association who have been named as additional respondents in the above MUR, and that the responses of these respondents will not be due until at least ten days after their receipt of the supplemental analysis.

Sincerely,

Joy L. Koletsky

Joy L. Koletsky
Staff Counsel

JLK:ew

8504205

nea
NATIONAL EDUCATION ASSOCIATION
1201 16th St., N.W.
Washington, D.C. 20036

04054202

Ms. Maura White
Federal Election Commision
1325 K Street, N.W.
Washington, D.C. 20463

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GCC#5098

100 YEARS
1884 1984

UNITED PAPERWORKERS INTERNATIONAL UNION

WAYNE E. GLENN
President

October 9, 1984

LEGAL DEPARTMENT
LYNN AGEE, Esq.
MICHAEL HAMILTON, Esq.
MELINDA J. BRANSCOMB, Esq.
MARK M. BROOKS, Esq.

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
'84 OCT 12 A9:43

Ms. Maura White
Staff Attorney
Federal Election Commission
Washington, D.C. 20463

Re: United Paperworkers International Union, Local 61
MUR 1641

Dear Ms. White:

I am writing on behalf of United Paperworkers International Union, Local 61, and in response to the Commission's letter of September 26, 1984, advising that there is reason to believe Local 61 violated the Act by allegedly incurring the "total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities." This letter will also serve as Local 61's response to the Interrogatories propounded by the Commission in this matter. I hereby swear that the answers given are true and correct to the best of my knowledge.

Local 61 permitted the Mondale for President Committee, Inc. (hereinafter "MPC") to use its telephone on various dates in February, 1984. MPC used Local 61's telephone on February 14, 23, 24, 25, 26, 27, and 28, 1984. Two phone calls were made by MPC on February 14; one on February 23; eighteen on February 24; six on February 25; two on February 26; three on February 27; and five on February 28 for a total of 37 calls. MPC rented one-third of the hall from February 23 through February 28. The telephone used by MPC is located in Local 61's union hall. The total amount of time the telephone was used by MPC was three hours. There was only one telephone used by MPC. The telephone used by MPC was the only one in Local 61's hall and was installed some time in 1972 when the hall was first rented by Local 61.

Because of the passage of time, the Local Union no longer has documentation which would indicate the cost of the installation of the telephone or the amount of the deposit initially made by the Local Union for the telephone. Since the telephone was installed in 1972, neither MPC nor any of its agents discussed the installation of the telephone with any agent of Local 61 prior to the installation of the telephone used by MPC.

8504054202 7

Re: United Paperworkers International Union, Local 61
MUR 1641

On a date prior to February 14, 1984, a representative of MPC from the Groveton, New Hampshire area did discuss using Local 61's telephone for purposes of promoting Mondale for President with Local 61's President, Wilbur Barnett. The MPC representative was informed that MPC could use Local 61's telephone, but that MPC would be billed for use of the telephone and the hall. Wilbur Barnett does not recall the date of the aforementioned conversation or the identity of the MPC representative.

No agent or representative or Local 61 made calls or performed tasks for MPC. In fact, the Local Union used the hall and the telephone for regular union business while MPC representatives were present during the period in question.

On April 12, 1984, Wilbur Barnett, President of Local 61, submitted a bill to MPC for its use of the hall, its use of Local 61's telephone, and for all toll calls it made on Local 61's telephone. The total amount of the bill was $43.77. The amount billed represents $26.27 for toll calls, $5.00 ($1.00/day for 5 days) as rental fee for use of telephone, and $12.50 (hall rent - $225.00/month; 5 days, 1/3 use of hall @ $2.50/day) for rental of union hall space. MPC has yet to remit their payment of that bill to Local 61.

The Act allows labor organizations to extend use of their facilities to candidates provided the labor organization is reimbursed by the candidate for the fair market value of the service. Local 61 charged MPC a reasonable rental charge for use of the telephone and the hall and billed MPC for reimbursement for every toll call MPC made on Local 61's telephone. Since installation of Local 61's telephone pre-dates MPC's use of it by twelve years, it is extremely difficult, if not impossible, to ascertain how much the installation and deposit initially cost the Local Union. However, the $1.00-per-day rental fee charged MPC for its use of the telephone should be considered more than adequate reimbursement for their proportional share of the installation and deposit costs incurred by the Local Union in 1972.

8504202028

Re: United Paperworkers International Union, Local 61
MUR 1641

Based on the foregoing, it is clear that there is no basis for believing that Local 61 violated the Act by permitting MPC to use its telephone. Accordingly, no further action should be taken against Local 61 in this matter.

Respectfully submitted,

Michael Hamilton
Counsel for UPIU, Local 61

MH:sq

cc: Eldon Hebert, Vice President, UPIU Region I
Ken Ramage, International Representative
Wilbur Barnett, President, UPIU Local 61

3504054209

UNITED PAPERWORKERS
INTERNATIONAL UNION
P.O. Box 1475
Nashville, Tennessee 37202

NASHVILLE TENN. OCT - 9'84 20

Ms. Maura White
Staff Attorney
Federal Election Commission
Washington, D.C. 20463

84 OCT 11 AM 8:48

04054203

LAW OFFICES OF

PETERSON, BELL & CONVERSE

2100 AMERICAN NATIONAL BANK BUILDING
101 EAST FIFTH STREET
ST. PAUL, MINNESOTA 55101
(612) 224-4703

RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY
GCC#5104
84 OCT 12 A10:02

ERWIN A. PETERSON
ROBERT C. BELL
WILLARD L. CONVERSE
ROGER A. JENSEN
KURT F. WALTHER
W. TIMOTHY MALCHOW
MARTIN J. COSTELLO
DAVID S. ANDERSON
JAMES C. ERICKSON
WILLIAM M. DRINANE
PAMELA J CONVERSE

October 5, 1984

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
84 OCT 12 P12:33

Federal Election Commission
Washington, D. C. 20463

Attention: Lee Ann Elliott
Chairman

Re: In the Matter of the Investigation of United Brotherhood of Carpenters and Joiners of America, Local 7, Associated with the Twin City Carpenters District Council, AFL-CIO
MUR 1641
Our File No. L3-1656

8504205431

Dear Ms. Elliott:

I represent Local 7 of the United Brotherhood of Carpenters and Joiners of America, affiliated with the Twin City Carpenters District Council, AFL-CIO, which is being investigated by you concerning improper use of Union phones by the Mondale Campaign Committee. Attached hereto is the Union's Statement of Designation of Counsel authorizing me to represent the Union in this matter.

Also enclosed and submitted as a response to your Order to Submit Written Answers dated September 25, 1984, is a sworn affidavit of Mr. George Zastrow, president of Local 7, wherein he states that the phone bank was offered to the Mondale Campaign Committee but it was never used.

Clearly there is no violation of any federal law or regulation in that the phones were never used by the Campaign Committee and, even if they had been used, there is a clear written agreement requiring the invoicing and payment to the Union for the use of the phones.

Please conclude your investigation expeditiously. We trust that you will come to the same conclusion that we have.

Yours very truly,

PETERSON, BELL & CONVERSE

Roger A. Jensen

RAJ/eld
Encl.

cc: Twin City Carpenters District Council
Local 7

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

GEORGE ZASTROW, being first duly sworn upon oath, deposes and states as follows:

1. Your affiant is the president of Local 7 of the United Brotherhood of Carpenters and Joiners of America, affiliated with the Twin City Carpenters District Council, AFL-CIO.

2. Your affiant's residence address is 3454 Ulysses Street NE, Minneapolis, Minnesota 55418; your affiant's home phone number is (612) 789-6866.

3. Your affiant has been president of Local 7 for over two years and was the president at all times material to the investigation concerning which this affidavit is submitted.

4. In late 1983, Local 7 was in contact with the Mondale Compaign Committee and offered to make its phone bank available to the Campaign Committee if requested. Subsequently, a request was made by the Campaign Committee for the use of the phone bank.

5. The executive committee of Local 7, pursuant to its constitution and by-laws, approved the request and the Union entered into a written agreement with the Mondale for President Campaign Committee dated January 1, 1984, authorizing the use of the Union's phone bank. A copy of said agreement is attached hereto as Exhibit A. Your attention is drawn to paragraph 5 of that agreement wherein it clearly states that the Union will invoice the Committee for the use of the facilities and equipment and that the Committee will remit payment to the Union for said use.

6. The Mondale for President Campaign Committee never used the

8504205 2032

phone bank despite the agreement entered into between the Union and the Campaign Committee.

7. The Union made inquiry in the summer of 1984 to the Mondale Campaign Committee to ascertain whether or not, in fact, the phone bank had been used because the Union had not received a billing from the Campaign Committee. Your affiant called Merna Goldetsky, the Assistant Finance Director of the Mondale/Ferraro Campaign Committee and requested her to review the records concerning whether or not the phone bank had been used.

8. By correspondence from Merna Goldetsky dated August 17, 1984, a copy of which is attached hereto as Exhibit B, your affiant was advised that the phone bank had not, in fact, been used and that the nonuse of the phones was the explanation for the lack of a billing.

9. Your affiant has further inquired of the staff of Local 7 to ascertain whether or not they have any recollection or record of the Union's phones being used either prior to August 17, 1984, or subsequent to that date. Your affiant has been advised by each member of the Union staff that to the best of their knowledge, the phones have never been used by the Mondale Campaign Committee or any other campaign committee associated with Walter Mondale's campaign for president.

Further your affiant saith not save and except that this affidavit is made pursuant to the Federal Election Commission's Request for Written Answers dated September 25, 1984.

George R Zastrow
George Zastrow

Subscribed and sworn to before me
this 5th day of October, 1984.

Elizabeth L Duffy
Notary Public

ELIZABETH L. DUFFY
RAMSEY COUNTY
NOTARY PUBLIC-MINNESOTA
MY COMMISSION EXPIRES FEB. 20, 1985

8504205033

AGREEMENT FOR THE USE OF LABOR ORGANIZATION FACILITIES AND EQUIPMENT

The Mondale for President Campaign Committee ("Committee") and _____ ("labor organization") agree this 1st day of January, 1984 that for the consideration set forth below, the Committee will use the following facilities and equipment of the labor organization on the dates indicated:

2. Dates of use: From Jan 3, 1984 to Feb 14 1984

3. Location of facilities to be used: _____

312 Central Ave N.E. Minneapolis Minn

4. Description of facilities and equipment:

Telephones

5. Other: _____

The labor organization agrees to invoice the Committee for the actual use of the facilities and equipment set forth above in an amount based on the normal and usual rental charge for such facilities and equipment in this community and including any actual telephone charges incurred by the Committee. The invoice will also include billing for the cost of any supplies provided to the Committee. The labor organization will promptly provide its invoice to the Committee, 2201 Wisconsin Avenue, N.W., Washington, D.C. 20007.

The Committee agrees to reimburse the labor organization for use of the labor organization's facilities within a commercially reasonable time.

The undersigned Committee representative is authorized to sign this Agreement on behalf of the Committee.

6. Signed: George B Zoetewey

7. George B Zoetewey
Name

8. President
Position

9. Carpenter's Local 7
Labor Organization

10. Marvin M. Hoffey

11. Merna M. Cable
Name

12. 1821 University Ave St
Address St. Paul Minn, 55104

Mondale for President Campaign Committee

13. Dated Jan 1, 1984

EXHIBIT A

3504054203.1

Democratic Victory Fund

August 17, 1984

George Jastrow
Carpenters Local ▲7
312 Central Ave. N.E.
Mpls., Mn.

Dear George,

Just a letter of thanks for agreeing to let us use your phones for our phonebank in Jan. As it happens we did not have to use the phones in your officedue to some of our volunteers not showing up.

We appreciate your support, and want to thank you once again.

Sincerely,

Merna Goldetsky
Assistant Finance Director
Mondale-Ferraro Victory Fund

8504205420035

2010 Midwest Plaza Building, 801 Nicollet Mall, Minneapolis, MN 55402 (612) 341-0154
2121 Wisconsin Ave. N.W. Washington, DC 20007 (202) 944-5500

EXHIBIT B

Paid for by the Democratic National Committee.

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Roger A. Jensen

ADDRESS: 2100 American National Bank Building
Saint Paul, Mn 55101

TELEPHONE: 612/224-4703

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

October 5, 1984
Date

George B. Jastrow
Signature

RESPONDENT'S NAME: United Brotherhood of Carpenters and Joiners of America, Local 7

ADDRESS: 312 Central Avenue
Minneapolis, Mn 55414

HOME PHONE:

BUSINESS PHONE: 379-9505

8504542036

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Alan Reuther

ADDRESS: 1757 N Street, N.W.
Washington, D.C. 20036

TELEPHONE: (202) 828-8500

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

Oct 12, 1984
Date

Charles Chandler
Signature

RESPONDENT'S NAME: Charles Chandler, President UAW Local 442

ADDRESS: 820 James Street
Webster City, Iowa 50595

HOME PHONE: (515) 832-4002

BUSINESS PHONE: (515) 832-2413

8504054203 7

RECEIVED AT THE FEC
GCC #5095
84 OCT 11 AM :

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: William H. Schmelling ESQ.

ADDRESS: United Steelworkers of America
One East Wacker Drive
Suite 1910
Chicago, Ill. 60601

TELEPHONE: (312) 467-1995

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
84 OCT 11 P12:11

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

10/8/84
Date

Alden G. Boardman
Signature

RESPONDENT'S NAME: Alden G. Boardman

ADDRESS: United Steelworkers of America
L.U. # 2944
6 Brookside Ave
Claremont, N.H. 03743

HOME PHONE:

BUSINESS PHONE: (603) 542-2060

3504054203 3

N G. BOARDMAN
.W.A. LU 2944
oo'side ave.
EMONT, N.H. 03743

WHITE RIVER JCT., VT 050
PM
9 OCT
1984

ALWAYS
USE ZIP C

FEDERAL ELECTION COMMISSION

ATT.. MAURA WHITE

WASHINGTON, D.C. 20463

84005420039

RECEIVED AT THE FEC
GCC #5094

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Cohen, Leifer, Counts

ADDRESS: 1125 Fifteenth Street, N.W.
Washington, D.C.
20005

TELEPHONE: 1-202-728-6211

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

Date 10/9/84

Signature Martin J. Fitzpatrick

RESPONDENT'S NAME: Martin J. Fitzpatrick, Business Manager

ADDRESS: Local 2320, IBEW
46 Third Street
Manchester, N.H. 03102

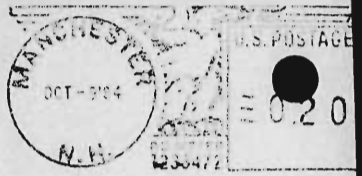
HOME PHONE: 1-603-622-1559

BUSINESS PHONE: 1-603-669-8657

8504054204O

IBEW

INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS
Local 2320
46 Third Street
Manchester, N.H. 03102
1



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

84 OCT 11 A9:49

50405420 4

ADDRESS CORRECTION REQUESTED

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary

FROM: Office of General Counsel

DATE: October 10, 1984

SUBJECT: MUR 1641 - Memorandum to The Commission

The attached is submitted as an Agenda document for the Commission Meeting of _____

Open Session _____

Closed Session _____

CIRCULATIONS		DISTRIBUTION	
48 Hour Tally Vote	[X]	Compliance	[X]
Sensitive	[X]		
Non-Sensitive	[ ]	Audit Matters	[ ]
24 Hour No Objection	[ ]	Litigation	[ ]
Sensitive	[ ]		
Non-Sensitive	[ ]	Closed MUR Letters	[ ]
Information	[ ]	Status Sheets	[ ]
Sensitive	[ ]		
Non-Sensitive	[ ]	Advisory Opinions	[ ]
		Other (see distribution below)	[ ]
Other	[ ]		

_____ _____

_____ _____

_____ _____

_____

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SENSITIVE

RECEIVED
OFFICE OF THE SEC
COMMISSION SECRETARY

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

84 OCT 10 P2 39

October 10, 1984

MEMORANDUM

TO: The Commission

FROM: Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

SUBJECT: MUR 1641

On September 18, 1984, the Commission determined that there is reason to believe 53*/unions violated 2 U.S.C. § 441b(a) by incurring the total deposit and installation costs of telephones utilized by the Mondale for President Committee Inc. ("MPC") at the unions' respective facilities. Notification of the Commission's finding was mailed to the 53 unions on September 25, 1984. The notification of the reason to believe finding included a statement that the Commission's determination was based upon the General Counsel's analysis that the union incurred the total installation and deposit costs of certain telephones used by MPC. A copy of a separate staff report setting forth the legal basis and alleged facts was, however, inadvertently omitted from the notification letter. Accordingly, we are now recommending that the attached sample letter and General Counsel's Factual and Legal Analysis be mailed, pursuant to 11 C.F.R. § 111.8, to the 53 unions involved herein.

RECOMMENDATION

Approve the attached sample letter and General Counsel's Factual and Legal Analysis to be mailed to 53 labor unions.

---

*/These 53 unions do not include those originally named in the complaint.

Attachment
Sample letter and analysis

8504205043

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Chris Giunchigliani, President
Clark County Classroom Teachers Association
1212 Casino Center
Las Vegas, Nevada 89104

Re: MUR 1641

Dear Mr. Giunchigliani:

Enclosed please find a copy of the General Counsel's Factual and Legal Analysis in the above-captioned matter concerning the Clark County Classroom Teachers Association ("labor organization") which was inadvertantly omitted from the notification letter mailed to the labor organization on September 25, 1984. In view of this omission you are hereby afforded an additional ten days from the date of your receipt of this letter to respond to the interrogatories which were enclosed with the notification of the reason to believe finding.

Although the labor organization was not named in the complaint which initiated this matter, we have enclosed a copy of that complaint for your information.

If you have any questions please contact Maura White at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

SAMPLE Attachment 1(1)

8504054204

FEDERAL ELECTION COMMISSION

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

On March 6, 1984, Ralph Hettinga, Jr., filed a complaint against the Mondale for President Committee, Inc. ("MPC") alleging that MPC utilized the facilities of various labor organizations in violation of 2 U.S.C. § 441b(a). In the course of the resulting investigation MPC stated that it entered into a lease agreement with the instant labor organization and utilized the labor organization's telephones. MPC has also stated that it did not pay any portion of the deposit and installation costs associated with the telephones it utilized.

Pursuant to 2 U.S.C. § 441b(a), a labor organization is prohibited from making a contribution or expenditure in connection with a federal election.

The term "contribution" is defined at 2 U.S.C. § 431(8)(A) to include anything of value made by any person for the purpose of influencing any election for federal office.

As set forth at 11 C.F.R. § 114.9(d) persons other than officials, members and employees of a labor organization, who make any use of the labor organization's facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) for the use of the facilities.

8504045

SAMPLE

Under 11 C.F.R. § 100.7(a)(1)(iii)(A) goods or services provided without charge or at a charge which is less than the usual and normal charge for such goods or services is a contribution. Examples of such goods or services include, but are not limited to: securities, facilities, equipment, supplies, personnel, advertising services, membership lists and mailing lists. If goods or services are provided at less than the usual and normal charge, the amount of the in-kind contribution is the difference between the usual and normal charge for the goods or services at the time of the contribution and the amount charged the political committee. 11 C.F.R. § 100.7(a)(1)(iii)(A).

The term "usual and normal charge" for goods means the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution; and "usual and normal charge" for any services, other than those of an unpaid volunteer, means the hourly or piecework charge for the services at a commercially reasonable rate prevailing at the time the services were rendered. 11 C.F.R. § 100.7(a)(1)(iii)(B).

The evidence in hand indicates that the instant labor organization permitted its telephones to be utilized by MPC, and that MPC failed to pay the labor organization for any portion of the telephones' deposit and installation costs. By incurring the total amount of the telephones' deposit and installation costs the instant labor organization has made a contribution to MPC, in the view of the Office of the General Counsel. Hence, it is the recommendation of the Office of the General Counsel that there is reason to believe the instant labor organization violated 2 U.S.C. § 441b(a).

SAMPLE

1(3)

3504054204 6

GCC #5072

BREVARD COUNTY
1122 Lake Dr.
P.O. Box 3787
Cocoa, Fl. 32922

CENTRAL LABOR COUNCIL

Charles L. Bell
President

RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY
OCT 10 11 11
OCT 10 A11:16

October 7, 1984

MUR 1641

Ms. Lee Ann Elliott
Federal Election Commission
Washington, D. C. 20463

Dear Ms. Elliott,

This is in reqponse to the Federal Election Commission's order to submit written answers sent to the Brevard County Central Labor Council.

In response to "Interrogatory 1", I attest that the Brevard County Central Labor Council's telephones were not used by the Mondale for President Committee, Inc.

The Brevard County Central Labor Council did install telephones to communicate with AFL-CIO union members in an effort to get-out-the-vote. Only union members were contacted. Those costs, etc., were reported on Form FEC 7.

The Mondale for President Committee, Inc. did contact the Brevard County Central Labor Council concerning the use of those telephones. A contract, intended to reflect the usual and normal rental charges for our equipment and facilities, was offered to the "MPC". The "MPC" chose not to use the telephones, and the contract was never fully executed.

Your query, however, does raise a question to which we request your response.

It is quite possible that the Brevard County Central Labor Council will again install telephones for communications to AFL-CIO union members. Of course, should telephones be installed, we will incurr the costs of installation and possible (refundable) deposits.

Should we then be approached by the "MPC" or any other federal candidate or committee, would it be appropriate or necessary for our contract with them to include the costs of the installation or deposits?

We sincerely hope that this satisfies any questions regarding the use of the Brevard County Central Labor Council's telephones and await your reply.

Very truly yours,

Charles L Bell

Charles L. Bell
President

Notary

My [illegible] 2, 1985

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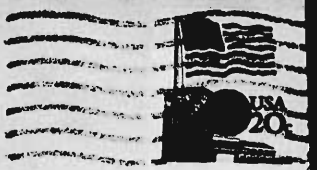
BREVARD COUNTY
CENTRAL LABOR COUNCIL

Post Office Box 3787
Cocoa, Florida 32922

ORLANDO, FL 328
PM
8 OCT
1984



Ms. Lee Ann Elliott
Federal Election Commission
Washington, D. C. 20463

84 OCT 10 A8:50

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4054203

GC #5078

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

EXECUTIVE COUNCIL

LANE KIRKLAND PRESIDENT THOMAS R. DONAHUE SECRETARY-TREASURER

John H. Lyons
Murray H. Finley
Sol C. Chaikin
Charles H. Pillard
Alvin E. Heaps
John DeConcini
Joyce D. Miller
James E. Hatfield
Vincent R. Sombrotto
Marvin J. Boede
Owen Bieber

Thomas W. Gleason
Albert Shanker
Edward T. Hanley
J. C. Turner
William W. Winpisinger
Wayne E. Glenn
John J. Sweeney
Barbara Hutchinson
Gerald W. McEntee
Patrick J. Campbell
John T. Joyce

Frederick O'Neal
Glenn E. Watts
Angelo Fosco
Kenneth T. Blaylock
William H. Wynn
Robert F. Goss
Frank Drozak
Richard I. Kilroy
William H. Bywater
Kenneth J. Brown
Lynn R. Williams

October 10, 1984

Charles N. Steele
General Counsel
Federal Election Commission
1325 K St., N.W.
Washington, D.C. 20463

RE: FEC MUR 1641

Dear Mr. Steele:

This letter constitutes the response of the New Hampshire AFL-CIO ("respondent") to the Commission's letter dated September 25, 1984 stating that the Commission has determined that there is "reason-to-believe" that the New Hampshire AFL-CIO violated 2 U.S.C. §441b(a) by incurring "the total cost of the installation of telephones, including deposits, utilized by agents of the Mondale for President Committee, Inc. at Local 5173 of the United Steelworkers of America (Laconia, N.H.) and the deposit costs of a telephone utilized by agents of the Mondale for President Committee at Local 490 of the IBEW (Dover, N.H.)."[1/]

For the reasons set forth below, the Commission should take no further action in this matter and should dismiss the complaint in MUR 1641:

1. No deposit charges were levied by the telephone company and none were paid for the two telephones installed at the offices of United Steelworkers of America Local 5173 ("USWA Local 5173") in Laconia, New Hampshire or the nine telephones installed in the offices of International Brotherhood of Electrical Workers Local 490 ("IBEW Local 490") in Dover, New Hampshire by the New Hampshire AFL-CIO. Accordingly, contrary to the Commission's September 25,

---

1/ Initially we note that the Commission's explanation of the factual basis for its reason-to-believe determination is incorrect. As shown by our response in this matter, dated April 11, 1984, the Mondale for President Committee used a single New Hampshire AFL-CIO telephone for six hours on the day of the New Hampshire primary, February 28, 1984, at USWA Local 5173 and leased nine phones when those phones were not in use by the New Hampshire AFL-CIO at the office of the IBEW Local 490 in Dover, New Hampshire. Our supplemental response herein is based on the correct version of the facts as set forth in our April 11, 1984 letter.

8504042049

1984 letter there is no reason to believe that the New Hampshire AFL-CIO violated 2 U.S.C. $441b(a) by incurring deposit costs of telephones utilized by agents of the Mondale for President Committee, Inc. ("MFP Committee").

2. The New Hampshire AFL-CIO installed two telephones at USWA Local 5173 in Laconia on or about December 8, 1984. As we stated in our initial response in this matter, agents of the Mondale for President Committee used one of those phones for six hours on the day of the New Hampshire primary, February 28, 1984. According to New England Bell Telephone Company the cost of installing one telephone at the above described location in December 1983 was $84.25. When that amount is pro-rated by the 83 days between the date of installation and the New Hampshire primary, the result is a daily installation cost of $1.02. When that daily cost is pro-rated in-turn by the six hours the Mondale for President Committee used the phone over the ten hours the phone was used on February 28th, the Committee's share of the installation costs for the New Hampshire AFL-CIO phone in Laconia comes to 61 cents.

Clearly, this installation cost is de minimis. Given the de minimis nature of the cost in question and the fact that the only guidance which the Commission has given as to what must be included in the "normal and usual rental charge" for telephones (Advisory Opinion 1978-34 and Opinion of Counsel 1976-30) gives no indication that de minimis costs such as this must be included in that charge, the Commission should take no further action in this matter and should close the file. We rest on this argument because — as the Commission's determination not to find reason-to-believe with regard to the installation costs of respondent's Dover phones recognizes — in connection with the Dover phone bank where the MFP Committee's pro-rated share of the installation costs were not insubstantial, respondent chose to include those costs in its bill to the Committee.

For the foregoing reasons, respondent respectfully requests that the Commission find no probable cause that the New Hampshire AFL-CIO has violated the Act and that it dismiss the complaint in FEC MUR 1641.

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for respondent
New Hampshire AFL-CIO

8504205050

RESPONSE OF THE NEW HAMPSHIRE AFL-CIO
TO INTERROGATORIES IN FEC MUR 1641

1. (a) The New Hampshire AFL-CIO paid no deposit costs for the telephones which the organization installed at the offices of IBEW Local 490 in Dover, New Hampshire.

   (b) Prior to the installation of the New Hampshire AFL-CIO's phones in the offices of IBEW Local 490, Charles Stott, AFL-CIO Field Representative for New Hampshire, discussed this matter with Bill Tapella, Field Director for the Mondale For President campaign in New Hampshire. The substance of that conversation was that the New Hampshire AFL-CIO was planning to install telephones in Local 490's offices in Dover and that the campaign was interested in leasing those phones when not in use by the New Hampshire AFL-CIO.

2. (a) The telephone used by the Mondale For President Committee on election day was installed on or about December 8, 1983.

   (b) The New Hampshire AFL-CIO is unable to locate the first phone bill for the two phones which the organization installed in the offices of Local 5173 of the United Steelworkers of America in Laconia, New Hampshire. However, according to New England Bell Telephone Company the costs of installing one phone at that location in December 1983 was $84.25.

   (c) The New Hampshire AFL-CIO paid no deposit costs for the telephones which the organization installed in the offices of USWA Local 5173 in Laconia, New Hampshire.

   (d) No.

   (e) $ 0

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I am authorized to sign these responses on behalf of the New Hampshire AFL-CIO. To the best of my knowledge and belief, the foregoing responses are true and correct.

Charles E. Stott

Charles E. Stott, AFL-CIO Field Representative for Region VIII

State of New Hampshire

Subscribed and sworn to before me this 8 day of October, 1984.

Doris N. Fodice
Notary Public

MY COMMISSION EXPIRES AUGUST 31, 1988

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006

Mr.Charles N. Steele
General Counsel
Federal Election Commission

BY HAND DELIVERY

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GCC#5046

UNITED PAPERWORKERS INTERNATIONAL UNION

100 YEARS
1884 1984

WAYNE E. GLENN
President

LEGAL DEPARTMENT
LYNN AGEE, Esq.
MICHAEL HAMILTON, Esq.
MELINDA J. BRANSCOMB, Esq.
MARK M. BROOKS, Esq.

OCT 10 A10:41

October 8, 1984

Ms. Maura White
Staff Attorney
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1641

Dear Ms. White:

Enclosed herewith please find a statement designating me as counsel for United Paperworkers International Union, Local 61, in connection with the above referenced matter.

Sincerely,

Michael Hamilton

MH:sq

Enclosure

cc: George O'Bea, PEP Director
Eldon Hebert, Vice President, Region I
Ken Ramage, International Representative
Wilbur Barnett, President, UPIU Local 61

8504054205 3

RECEIVED AT THE FEC

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Michael Hamilton

ADDRESS: P.O. Box 1475
Nashville, TN 37202

TELEPHONE: 615-834-8590

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

10/8/84
Date

Wilbur V. Barnett
Signature

RESPONDENT'S NAME: Wilbur V. Barnett

ADDRESS: UPIU, Local 61
RFD #1
Groveton, NH 03582

HOME PHONE:

BUSINESS PHONE: 603-636-2828

8504054205 4

UNITED PAPERWORKERS
INTERNATIONAL UNION
P.O. Box 1475
Nashville, Tennessee 37202

84040342003

Ms. Maura White
Staff Attorney
Federal Election Commission
Washington, D.C. 20463

84 OCT 10 AM 8:51

GCC#5040

LEGAL SERVICES
OFFICE OF GENERAL COUNSEL

NATIONAL EDUCATION ASSOCIATION • 1201 16th St., N.W., Washington, D C 20036 • (202) 822-7035

MARY HATWOOD FUTRELL, President
KEITH GEIGER, Vice President
ROXANNE E. BRADSHAW, Secretary-Treasurer

DON CAMERON, Executive Director

October 9, 1984

OCT 9 P 5:35

Ms. Lee Ann Elliott
Chairman
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1641

8504054205 6

Dear Ms. Elliott:

On September 25, 1984, you notified me that, the Commission "determined that there is reason to believe the New Hampshire NEA and the Iowa NEA violated 2 U.S.C. § 441b(a)."[1] The Commission made this determination because "it appears that [these organizations] incurred the total cost of the installation of telephones, including deposits, utilized by agents of the Mondale for President Committee at the unions' respective facilities." You ordered NEA-NH and ISEA to respond to certain interrogatories, and their responses are enclosed. You also invited ISEA and NEA-NH to "submit any factual or legal materials which [they] believe are relevant to the Commission's analysis of this matter." This letter is submitted on behalf of ISEA and NEA-NH in response to this latter invitation.

1. ISEA

The "reason to believe" finding against ISEA can be disposed of summarily, inasmuch as its predicate is factually wrong: ISEA

---

[1]The Commission's reference to "New Hampshire NEA" and "Iowa NEA" is inaccurate. The correct names for these organizations are the NEA-New Hampshire and the Iowa State Education Association. We will in this letter refer to them as "NEA-NH and "ISEA," respectively.

did not incur "the total cost of the installation of telephones [there were no "deposits"] utilized by the Mondale for President Committee." Although we do not believe that it legally was obligated to do so, see discussion, infra, ISEA in fact billed the Committee for its pro rata share of the cost of installation based on usage. This is verified in the enclosed response of ISEA to the Commission's interrogatories.[2]

We understand the Commission's letter of September 25, 1984, to mean that ISEA's activities were otherwise in compliance with the Federal Election Campaign Act of 1971 ("Act"), and the "reason to believe" finding against ISEA, therefore, should be rescinded.

2. NEA-NH

Although the statement in the Commission's September 25, 1984, letter vis-a-vis NEA-NH is factually correct -- i.e., NEA-NH did incur "the total cost of the installation of telephones"[3] -- the "reason to believe" finding against NEA-NH nonetheless is unwarranted and should be rescinded.

The Commission's contention that a labor organization cannot bear the full cost of installation of telephones that it installed for its own purposes if it subsequently allows a

---

[2]The affidavit of ISEA Executive Director, Fred R. Comer, submitted with our initial response to this MUR on April 13, 1984, described ISEA's billing procedure, but did not specify that the cost of installation would be included in the bill submitted to the Committee. The bill was prepared subsequent to the submission of that affidavit, and included an installation charge as indicated in the enclosed ISEA response to the Commission's interrogatories. We note in this connection that, because the telephones in question were installed by ISEA for use in the member-to-member communication program that it undertook in connection with the Iowa presidential primary and removed after the primary, it was possible to compute a pro-rata charge based on total usage. But see footnote 6, infra.

[3]Again, there were no deposits.

8504205 7

campaign committee to make use of those telephones[4] -- finds no support in the Act or the Commission's Regulations and, indeed, is contrary to the position suggested in at least one Advisory Opinion. In A.O. 1978-34, which we cited in our April 13, 1984, response to this MUR, the Commission indicated that the "normal and usual rental charge" for telephones is the cost of the calls made and the "charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning." A.O. 1978-34 made no reference to the cost of installation, and this cost likewise was not mentioned in MURs predicated upon this A.O. See, e.g., MUR 1349; see also O.C. 1976-30. In short, prior to receiving the Commission's September 25, 1984, letter, NEA-NH had no reason to believe that the "normal and usual rental charge" for telephones included the cost of installation, and, indeed, had ample reason to believe otherwise.

We believe that the Commission is legally wrong in contending that a labor organization must charge a campaign committee for a pro-rata share of the cost of installing telephones that are to be used for the labor organization's own purposes. But even if this were not the case, it would in any event be patently inequitable -- and contrary to 2 U.S.C. § 437f(c) -- for the Commission to now base a "reason to believe" finding on an action that was taken by NEA-NH in good faith

8504205 8

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[4]The enclosed NEA-NH's response to the Commission's interrogatories states that the telephones in question were installed by NEA-NH for "[c]ommunication with members of NEA-NH," but some further elaboration is appropriate. Several years ago as part of a renovation of its headquarters building, NEA-NH expanded its capacity to communicate with its members by having telephone jacks installed in a conference room. NEA-NH subsequently purchased its own telephones. Thus, the telephone "set up" already was in place and the only "installation" cost incurred by NEA-NH in connection with the New Hampshire primary was $342.78 to activate the telephones for use in a member-to-member communication program undertaken by NEA-NH in connection with the primary. It is this $342.78 activation cost to which we refer when we make reference in this letter to the cost of installation.

reliance on what reasonably appeared to be the position of the Commission at that time.[5]

Finally, regardless of what is legal and/or equitable, we do not believe that the de minimus amount of money that is involved in this dispute warrants a continued investment of time and effort by NEA-NH or the Commission. Accordingly, in order to dispose of this MUR, NEA-NH is prepared, without waiving its legal position, to bill the Mondale for President Committee for a pro-rata share of the $342.78 that it expended to activate the telephones in question.[6]

Sincerely,

Robert H. Chanin

Attorney for Respondents
ISEA and NEA-NH

RHC:gm
Enclosures

---

[5]Moreover, inasmuch as the rule the Commission attempts to impose in this MUR -- i.e., that a charge for installation must be included in the calculation of the normal and usual charge for the use of telephones -- is not stated in the Act, the Regulations, or Advisory Opinions, the attempt is contrary to 2 U.S.C. § 437f(b). That section provides that "[a]ny rule of law which is not stated in the Act ... may be initially proposed by the Commission only as a rule or regulation pursuant to [the applicable rulemaking procedure]."

[6]The telephones were activitated by NEA-NH for use in the member-to-member communication program that it undertook in connection with the New Hampshire primary and deactivated after the primary, and it is therefore possible (as it was for ISEA) to compute a pro-rata charge based on total usage. Query, however, how the necessary computation would be made if the labor organization had installed the telephones for use in the regular course of its business and intended to continue using the telephones for the indefinite future. This would appear to make it impossible to determine the Committee's pro rata share of the cost of installation based on total usage, and would buttress our contention that the cost of installation is not properly included as a part of the "normal and usual rental charge" for telephones.

8504205 9

RECEIVED
OCT 9 1984
NEA OFFICE OF
GENERAL COUNSEL

RESPONSE OF THE IOWA STATE EDUCATION ASSOCIATION TO "ORDER TO SUBMIT WRITTEN ANSWERS" FROM THE FEC (MUR 1641)

1. Yes

2. a. Salisbury House, Des Moines, January 14, 15, 1984.
ISEA UniServ Office, Red Oak, January 31, February 9, 16, 1984.
ISEA UniServ Office, Algona, February 2, 3, 7, 8, 9, 1984.

b. Salisbury House, 4025 Tonawanda Drive, Des Moines, Iowa 50312
Southwest UniServ Unit Office, 1110 Broadway, Red Oak, Iowa 51566
UniServ Unit #10, 2½ East State, Algona, Iowa 50511

c. Des Moines, 12 hours
Algona, 13 hours
Red Oak, 11 hours

TOTAL: 36 Hours

d. Des Moines, 7
Red Oak, 6
Algona, 4

3. a. Salisbury House: no additional phones added. Existing business phones were used on a Saturday and Sunday.
Algona and Red Oak: January 12, 1984

b. Red Oak, $177.75
Algona, $154.25

c. The [redacted] purpose of the installations was to have additional telephone capacity for members to contact other members regarding caucus attendance.

Iowa State Education Association
Telephone 279-9711 . Area Code 515 . 4025 Tonawanda Drive . Des Moines, Iowa 50312

8504054206 0

3. d. Yes. In order to carry out its member-to-member contact program, ISEA had ascertained that it would need telephones in certain areas, specifically Red Oak and Algona. Subsequently, this information was shared by an ISEA staff person with an MPC staff person, who asked if MPC could use the lines when they were not being used in the member contact program. ISEA agreed.

4. Red Oak, $13.68
Algona, $19.80
These amounts represent a pro rata share of the cost on useage.

I HEREBY DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING STATEMENTS ARE TRUE AND CORRECT.

DATE: October 5, 1984

Signed: Fred Comer

Fred R. Comer
Executive Director
Iowa State Education Association

8504054206 1

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

IN THE MATTER) MUR 1641

NEA-NEW HAMPSHIRE'S WRITTEN
ANSWERS TO QUESTIONS SUBMITTED
PURSUANT TO FEDERAL ELECTION
COMMISSION ORDER DATED SEPTEMBER 25, 1984

AND NOW comes the National Education Association-New Hampshire ("NEA-NH") in response to the above-reference questions and states the following:

1. Yes.

2. a) November 7, 1983, through February 27, 1984.

b) NEA-NH Conference Room, First Floor, 103 N. State Street, Concord, N. H. 03301.

c) One hundred ninety-five (195) hours.

d) Four.

3. a) October 31, 1983.

b) Three hundred forty-two and 78/100s dollars ($342.78).

c) Communication with members of NEA-NH.

d) No.

e) NEA-NH paid no deposits in connection with the telephones utilized by MPC.

4. NEA-NH did not bill MPC for any portion of the telephone installation costs.

Respectfully submitted,
NEA-New Hampshire
By Its Executive Director,

Melvin E. Myler, Jr.

I hereby swear, under penalty of perjury, that the above-written answers to the questions of the Federal Election Commission are true and correct to the best of my knowledge and belief.

Date: 10-4-84

Melvin E. Myler, Jr.

8504054206 2

NATIONAL EDUCATION ASSOCIATION
OF THE UNITED STATES
1201 Sixteenth Street, N. W.
Washington, D. C. 20036

2504054206 3

OFFICE OF GENERAL COUNSEL
NATIONAL EDUCATION ASSOCIATION

TO: Ms. Lee Ann Elliott
Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

RECEIVED AT THE FEC
GCC#5090
84 OCT 9 P3:55

Roofer's Union Local No. 70

Affiliated with AFL-CIO and Building and Construction Trades Department

5300 WEST MICHIGAN AVE.
YPSILANTI, MICHIGAN 48197

TELEPHONE
(313) 434-4195

THOMAS W. GAWLIK
BUSINESS MANAGER

October 4, 1984

84 OCT 10 AM 10:01

Federal Election Commission
Washington, D.C. 20463

Re: MUR 1641

Members of the Commission:

This will acknowledge receipt of your communication of September 26, 1984, to the following:

William Darryl Barber
United Union of Roofers, Waterproofers
and Allied Workers, Local #70
5300 West Michigan Avenue
Ypsilanti, Michigan 48197

The commission's letter asserts that Roofers Union Local #70 incurred the total installation and deposit cost of telephones used by the Mondale for President Campaign.

The information upon which the commission made its determination is incorrect!

1) No phones were installed at Local #70 for M.P.C. All phones were installed ten or more years ago.
2) I made my phones available to M.P.C. at the rate of 8.5¢ per call, and I have received payment for such use.

Enclosed please find an itemized list of the dates the phones were used and the amount of calls made per day. Also, enclosed please find a copy of the paid bill.

Very truly yours,

William Barber

William D. Barber,
Business Manager

WDB:sl

8504042061

Roofers Union Local #70

434-4254
434-4195

March 15, 1984 - 85 calls
March 16, 1984 - 27 calls
March 3, 1984 - 99 calls
March 3, 1984 - 73 calls
March 4, 1984 - 71 calls
March 4, 1984 - 67 calls
March 7, 1984 - 12 calls
March 15, 1984 - 36 calls
March 17, 1984 - 20 calls
March 16, 1984 - 41 calls
March 7, 1984 - 12 calls
543 calls - Total

8504205420655

Roofer's Union Local No. 70
Affiliated with AFL-CIO and Building and Construction Trades Department

5800 WEST MICHIGAN AVE.
YPSILANTI, MICHIGAN 48197

TELEPHONE
(313) 434-4195

April 19, 1984

Mondale for President Campaign

Billing for calls made March 3, 1984 thru March 17, 1984:

543 calls @ 8.5¢ per call $46.16

William Barber

William Barber
Business Agent

Pd.

8504054206 3

21330 #5602.01

Roofer's Union Local No. 70
5300 WEST MICHIGAN AVENUE
YPSILANTI, MICHIGAN 48197

Federal Election Commission
Washington, D. C. 20463

CERTIFIED
P33 8243910
MAIL

C00420067

FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

October 9, 1984

Carolyn U. Oliphant
Deputy General Counsel
Mondale for President Committee, Inc.
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007

Re: MUR 1641

Dear Ms. Oliphant:

This is in reference to your letter dated October 5, 1984, in which you request an extension of time until October 19, 1984, to respond to the interrogatories issued to your client, Mondale for President Committee, Inc., in the above-captioned matter. After considering the circumstances presented in your letter, I have agreed to the requested extension. Accordingly, your client's response will be due on October 19, 1984.

If you have any questions please contact Maura White, the staff member assigned to this matter, at 523-4143.

Sincerely,

Charles N. Steele
General Counsel

8504205 68

ANGELO FOSCO
General President

ARTHUR E. COIA
General Secretary-Treasurer

RECEIVED AT THE FEC
GCC #5029
84 0

Robert J. [illegible]
General Counsel

[illegible], 1st Vice-President
[illegible], 2nd Vice-President
Wilbur Freitag, 3rd Vice-President
Michael Loreillé, 4th Vice-President
Ugo Rossini, 5th Vice-President
Mason M. Warren, 6th Vice-President
R. P. Viselli, 7th Vice-President
Joel D. Wiegert, 8th Vice-President

LABORERS' INTERNATIONAL UNION of NORTH AMERICA

905-16th St., N.W.
Washington, D.C. 20006-1765
Tele: A/C 202-737-8320

October 5, 1984

Federal Election Commission
Washington, D. C. 20463

RE: MUR 1641

Gentlemen:

Enclosed please find Statement of Designation of Counsel forwarded with your letter of September 26, 1984, in re. the above.

Very truly yours,

ANGELO FOSCO
General President

AF:md
Enclosure
cc: Orrin Baird, Esquire

8504054206 9

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Orrin Baird

ADDRESS: Connerton, Bernstein & Katz
1899 L. Streets, N. W., #800
Washington, D. C. 20036

TELEPHONE: 202-466-6790

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

October 5, 1984
Date

Angelo Fosco
Signature

RESPONDENT'S NAME: Angelo Fosco, General President

ADDRESS: Laborers' International
Union of North America
905 16th Street, N. W.
Washington, D. C. 20006

HOME PHONE:

BUSINESS PHONE: 202-737-8320

8504054207 0

LABORERS' INTERNATIONAL UNION
of NORTH AMERICA

905-16th St., N.W., WASHINGTON, D.C. 20006-1765

ANGELO FOSCO, General President

Federal Election Commission
Washington, D. C. 20463

85040542007

84OCT9 A8:

LAW OFFICES
CONNERTON, BERNSTEIN & KATZ
SUITE 800
1899 L STREET, N. W.
WASHINGTON, D. C. 20036
(202) 466-6790

RECEIVED AT THE FEC
GCC #5830

ROBERT J. CONNERTON
JULES BERNSTEIN
DANIEL M. KATZ *
DONALD ELISBURG
DAVID W. ELSAOR *
THEODORE T. GREEN *
JAMES S. RAY *
PHILLIS PAYNE
LINDA LIPSETT ‡
ORRIN BAIRD
LAURENCE E. GOLD
STEPHEN P. CLARK
STANLEY C. WISNIEWSKI †
SAMUEL W. HALPERN
SHELLEY D. HAYES

JACK CURRAN
LEGISLATIVE DIRECTOR
(NOT A MEMBER OF THE BAR)

* ADMITTED IN VA AND MD
† ADMITTED IN MD ONLY
‡ ADMITTED IN CA ONLY

[redacted] OFFICE
[redacted] EXECUTIVE BOULEVARD
ROCKVILLE, MARYLAND 20852
(301) 984-1212

VIRGINIA OFFICE:
2080 NORTH 14TH STREET
ARLINGTON, VIRGINIA 22201
(703) 524-1900

TELECOPIER (202) 659-5559

October 5, 1984

Maura White
Office of General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1641

Dear Ms. White:

When we spoke today over the phone, you indicated that you would be sending my client additional correspondence regarding the above-referenced MUR which would have the effect of extending my client's response time to the FEC's interrogatories until 10 days from the receipt of that material. You indicated over the phone that there was no need for me to formally seek an extension of time for filing our response to the FEC's interrogatories which is currently due October 7, 1984. If this is not your understanding of our conversation, please let me know immediately.

Sincerely,

Orrin Baird

Attorney for Laborers' International Union of North America

OB:km

cc: Jack Curran

3504207 2

LAW OFFICES

ONNERTON, BERNSTEIN & KATZ

SUITE 800

1899 L STREET, N.W.

WASHINGTON, D.C. 20036

8004207

WASHINGTON, D.C. 20036 PM 5 OCT 1984

Maura White
Office of General Counsel
Federal Election Commission
Washington, D.C. 20463

84OCT9 A8:17

RECEIVED AT THE FEC
GCC#5026

UNITED PAPERWORKERS INTERNATIONAL UNION

100 YEARS 1884 1984

WAYNE E. GLENN
President

LEGAL DEPARTMENT
LYNN AGEE, Esq.
MICHAEL HAMILTON, Esq.
MELINDA J. BRANSCOMB, Esq.
MARK M. BROOKS, Esq.

October 5, 1984

Ms. Maura White
Staff Attorney
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1641

Dear Ms. White:

Enclosed herewith please find a statement designating me as counsel for United Paperworkers International Union, Local 75 in connection with the above referenced matter.

Sincerely,

Michael Hamilton

Michael Hamilton

MH:sq

Enclosure

cc: George O'Bea, PEP Director
Eldon Hebert, Vice President, Region I
Edward Ferrari, President, UPIU Local 75

8504054207 4

STATEMENT OF DESIGNATION OF COUNSEL

MUR No. 1641

NAME OF COUNSEL: Michael Hamilton

ADDRESS: P.O. Box 1475
Nashville, TN 37202

TELEPHONE: (615) 834-8590

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

10/04/84
Date

Edward Ferrari (mail)
Signature

RESPONDENT'S NAME: Edward Ferrari, President

ADDRESS: UPIU Local 75
P.O. Box G
Berlin, NH 02570

HOME PHONE:

BUSINESS PHONE: (603) 752-2225

8504042075

UNITED PAPERWORKERS
INTERNATIONAL UNION
P.O. Box 1475
Nashville, Tennessee 37202

NASHVILLE TENN. OCT 5 '04 = 20

Ms. Maura White
Staff Attorney
Federal Election Commission
Washington, D.C. 20463

84013 4:38

30405420707

CC#5066 white

INTERNATIONAL BROTHERHOOD of ELECTRICAL WORKERS
LOCAL 292
United Labor Centre, 2nd Floor, Suite 292
312 Central Avenue • Minneapolis, Minnesota 55414
(612) 379-1292

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF THE SECRETARY
84 OCT 9 P5:51

October 5, 1984

84 OCT 10 AM 11:16

Ms. Lee Ann Elliott, Chairman
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1641

Dear Ms. Elliott:

This is in reference to your letter of September 26, 1985, relative to telephones used by the Mondale for President Committee. Enclosed herewith, please find Local Union 292's Statement of Designation of Counsel as well as Replies to Interrogatories, which your office requested.

Sincerely,

Owen Schleisman

Owen Schleisman
Business Manager
Local Union 292, IBEW

OS/lp
opeiu #12 afl-cio
Enc.

cc:Cohen, Leifer and Counts

Certified #495 012 186 - Return Receipt Requested

8504054207 7

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054207 3

Replies to Interrogatories

1. Yes.

2. a) 1/3, 1/5, 1/9, 1/12, 1/16, 1/17, 1/18, 1/23, 1/24, 1/31, 2/2 -- 1984.

   b) United Labor Centre, Local Union 292, Suite 292, 312 Central Avenue, Minneapolis, MN 55414.

   c) 103.5 Hours.

   d) 6.

3. a) Existing telephones were used.

   b) Not Applicable.

   c) Not Applicable.

   d) Not Applicable.

   e) None.

   f) $269.10. Copy of bill attached.

8504042079

I. B. E. W.

Local 292, Minneapolis, Minn. 55414

312 Central Avenue 379-1292

April 27, 1984

Merna Goldetsky,
Office Manager
c/o Mondale for President
2419 Gettysburg
St. Louis Park, Mn. 55426

BILLING FOR USE OF PHONES AT IBEW, LOCAL 292 OFFICES:

103.5 Hours @ $2.60/hr. = $269.10

This hourly figure was arrived at as follows:

Rent/year = $22,788.00 divided by
365 days = $62.43/day divided by
24 hours = $2.60/hour.

8504054208 0

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Cohen, Leifer and Counts

ADDRESS: 1125 15th Street N.W.
Washington, D.C. 20005

TELEPHONE: (202) 728-6211

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

10-5-84
Date

Owen Schleisman
Signature

RESPONDENT'S NAME: Owen Schleisman, Business Manager

ADDRESS: IBEW, Local 292
312 Central Avenue
Minneapolis, MN 55414

HOME PHONE:

BUSINESS PHONE: (612) 379-1292

8504054208 1

Ms. Lee Ann Elliott, Chairman
Federal Election Commission
Washington, D.C. 20463

CERTIFIED
P 495 012 186
MAIL

RETURN RECEIPT REQUESTED

GCC# 5073

Local 21
Box 847
Rochester, MN 55903

RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY
84 OCT 9 P5:38

October 5, 1984

MUR 1641

MS LeeAnn Elliott
Chairman, Federal Elections Commission
Washington, D.C. 20463

Dear Ms Elliot:

The following is in response to your letter dated September 26, 1984, and the order dated September 25, 1984:

1. I as Business Manager for this union authorized the use of our telephones by the Mondale for President Committee Inc.

2. a. The dates the phones were used by the committee were February 10,13 and 14, 1984.

   b. 405½ South Broadway, Rochester, MN

   c. 271 minutes

   d. three (3)

3. a. The present telephone system in our offices was installed in April, 1975;

   b. The cost of the installations were:

   Service charge $9.00
   Line charge $10.20
   Telephones $57.50
   Total $76.70

   c. The purpose of the installations was to conduct union business, communicate with union members and assist in the serving of the best interests of the members of Local 21.

   d. The Mondale for President Committee or any of its agents did not discuss the use of our telephones with any agent of Local 21 prior to the installation of the telephones.

8504205085

QPC

e. The amount of deposit is included in b.

f. The MPC was not billed for any portion of the telephone installation or deposit costs.

Additional information that your letter did not request is the amount MPC was billed for telephone calls. That amount for 271 minutes is $86.47. The date for the billing is February 28, 1984.

This labor organization did not install and or pay installment costs or deposits of telephone for use by the Mondale for President Committee at the labor organizations facilities.

Yours truly,

Buck Jackson

Buck Jackson

BJ/gp

8504054208 4

Local 21
Box 847
Rochester, MN 55903

3504054120

ROCHESTER MN 559
PM
15 OCT
1984

ALWAYS
ZIP CODE
84 OCT 16

Ms LeeAnn Elliott
Chairman, Federal Elections Commission
Washington, D.C. 20463

RECEIVED AT THE FEC
GCC#4983
84 OCT 5 A8:32

LAW OFFICES
KIRSCHNER, WEINBERG, DEMPSEY, WALTERS & WILLIG
SUITE 800
1100 17TH STREET, N.W.
WASHINGTON, D.C. 20036

(202) 775-8900

RICHARD KIRSCHNER
LARRY P. WEINBERG
JOHN C. DEMPSEY†
JONATHAN WALTERS
DEBORAH R. WILLIG

ALAINE S. WILLIAMS*
MARILYN S. MAY*
ROBERT T. FENDT*
ROBERT TIM BROWN*
BARBARA KRAFT
MARTHA WALFOORT
LEE W. JACKSON
STUART W. DAVIDSON*
CRAIG BECKER

†ALSO ADMITTED IN VIRGINIA
*NOT ADMITTED IN DISTRICT OF COLUMBIA

PHILADELPHIA OFFICE
SUITE 1100
1429 WALNUT STREET
PHILADELPHIA, PA. 19102
(215) 568-8900

HARRISBURG OFFICE
CITY TOWERS BUILDING
HARRISBURG, PA. 17101
(717) 233-9618

VIRGINIA OFFICE
10311 COMMONWEALTH BLVD.
FAIRFAX, VA. 22032

October 4, 1984

84 OCT 5 A10:08

Charles N. Steele, Esquire
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1641

Dear Mr. Steele:

Enclosed you will find our Statement of Designation of Counsel for respondents Charles Hughes and AFSCME 372 in the above-captioned matter. Please take whatever steps are necessary to insure all communications with regard to this matter are sent to the undersigned. If there have been any communications subsequent to the original reason to believe letter dated September 26, 1984, I request that you notify me immediately.

Sincerely,

Larry P. Weinberg

LPW/js
Enclosure

8504042085

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Larry Weinberg

ADDRESS: Kirschner, Weinberg, Dempsey, Walters & Willig
1100 17th Street, N.W., Suite 800
Washington, D.C. 20036

TELEPHONE: (202) 775-5900

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

10-1-84
Date

Signature
Charles Hughes

RESPONDENT'S NAME: AFSCME Local 372 and Charles Hughes

ADDRESS: 125 Barclay Street
New York, New York 10007

HOME PHONE:

BUSINESS PHONE: (212) 766-1190

8504054200 87

JD
LAW OFFICES
NER, WEINBERG, DEMPSEY, WALTERS & WILLIG
SUITE 800
1100 17TH STREET, N.W.
WASHINGTON, D.C. 20036

Charles N. Steele, Esquire
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

84 OCT 5 AM 8:87
FEC

5040542039

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: KATHY KRIEGER

ADDRESS: 101 CONSTITUTION AVENUE NW

WASHINGTON D C 20001

TELEPHONE: 202-546-6206

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

October 4, 1984
Date

John W. Martin
Signature

RESPONDENT'S NAME: _____

ADDRESS: _____

_____

_____

HOME PHONE: _____

BUSINESS PHONE: _____

84 OCT 5 P1:25

8504054209 89

RECEIVED AT THE FEC
FCC#4996
84 OCT 5 P1:

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: William C. Oldaker

ADDRESS: Epstein, Becker, Vorsody & Green, P.C.
1140 19th St., N.W., Suite 900
Washington, D.C. 20036

TELEPHONE: 202-861-0900

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

Oct 1, 1984
Date

Georgia Iannello
Signature

RESPONDENT'S NAME: Georgia Iannello

ADDRESS: Oklahoma City Federation of Teachers
1524 Linwood Blvd.
Okla. City, OK 73106

HOME PHONE:

BUSINESS PHONE: 405-236-1421

8504042090

OKLAHOMA CITY FEDERATION OF TEACHERS
LOCAL 2309, AMERICAN FEDERATION OF TEACHERS AFL-CIO
1524 LINWOOD BOULEVARD
OKLAHOMA CITY, OKLAHOMA 73106
PHONE 236-1421

October 1, 1984

To Whom It May Concern:

My responsibilities as president of the Oklahoma City Federation of Teachers, AFT Local 2309, AFL-CIO, commenced on the opening of the business day February 10, 1984.

At all times material since that date Mr. David Renfro has had no responsibility or authority to act on behalf of this organization.

Sincerely,

Georgia Iannello

Georgia Iannello
President

bm
opeiu 381
afl-cio

8504054209 1

OKLAHOMA CITY FEDERATION OF TEACHERS
Local 2309, American Federation of Teachers, AFL-CIO
1524 LINWOOD BOULEVARD
OKLAHOMA CITY, OKLAHOMA 73106

RECEIVED
84 OCT 5 P1:

Federal Election Commission
Washington, D.C. 20463

CERTIFIED
P 615 546 820
MAIL

Atten.: Maura White

Mondale for President
2501 Wisconsin Avenue, N.W.
Washington, D.C. 20007
Telephone: 202-625-1600

GCC#4989

MONDALE

October 5, 1984

Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, NW
Washington, D.C. 20463

Re: MUR 1641

84 OCT 5 AM 11:34

RECEIVED
GENERAL COUNSEL

Dear Mr. Steele:

On October 2, I spoke with Maura White of your office concerning the possibility of receiving an extension of time in which to respond to the Commission's most recent interrogatories in MUR 1641. Our response is presently due on October 9, 1984. As of 3:00 p.m. October 4, I had received no response to my request so I called Maura White who was not in the office. Her supervisor, Lois Lerner, informed me that as of that time no extension would be granted, but that I could contact the office again Friday

As you know, the Commission is treating several matters concerning MPC in an expedited fashion and expecting that the Committee respond to short deadlines. Each of these cases is the result of a concerted plan by the National Right to Work Committee to harrass MPC. WE have done our best to comply with the Commission's expedited deadlines. Nevertheless, due to our increasing work-load and the imminency of the general election, it becomes more difficult to divert Committee resources to respond on an expedited basis to complaints pertaining to the primary election. Indeed, as your office is aware, we have several filings due with the Commission within a day of these interrogatory answers.

Specifically, on October 10, 1984, we must file a response to MUR 1776. Your office was reluctant to grant us a routine extension of time to respond to this MUR which we received along with two other MURs on the same day. We responded to the other two MURs in timely fashion and informed Mr. Gross that we would make every effort to submit our response to MUR 1776 by October 10, even though we felt that we needed an extension until October 15. Also, on October 10, 1984, your office is expecting us to return a counter-proposal to the Commission's conciliation offer in MUR 1704 which we received on October 2.

Paid for by Mondale for President, Inc.

8504054209 3

While we understand that the complainant has filed suit in this matter pursuant to 2 U.S.C. Section 437g(a)(8), that should not deprive MPC of a reasonable opportunity to respond to interrogatories. MPC is not responsible for any delay in processing this matter.

MUR 1641 was filed on March 6, 1984. It was not until three months later, on June 12, 1984, that the Commission found reason to believe. Moreover it was three weeks from the date of that finding before MPC was notified. At that time we received interrogatories, the answers to which would have been due during the Democratic National Convention. We obtained an extension of time until August 20, 1984, which we needed to answer the questions. The Commission then, on its own, expanded the scope of this investigation far beyond the allegations in the complaint to make a party to this action all labor organizations which leased phones to MPC even though there was no evidence which indicated that those organizations violated the Act.

Now, six weeks from Commission receipt of our responses to the initial interrogatories. the Commission requests that we answer questions which will require review of all MPC vendor files and MPC reports. The ostensible reason for the refusal to grant MPC an extension of time is the pendency of the (a)(8) suit in MUR 1641 However, the Commission's inquiry into 53 additional labor organizations and MPC was not the subject of the original complaint.

We are informing you that we are unable to respond to your interrogatories by October 9. We request that you inform MPC by 3:00 p.m. today whether or not you will grant us until October 19 to respond to these interrogatories.

Sincerely,

Carolyn U. Oliphant

Carolyn U. Oliphant
Deputy General Counsel

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GCC # 4991

LOCAL UNION NO. 512

United Brotherhood of Carpenters and Joiners of America

5300 WEST MICHIGAN AVENUE, YPSILANTI, MICHIGAN 48197

RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY

MEETS 1ST AND 3RD
THURSDAYS AT 7:30 P. M.

INSTITUTED AUGUST 12, 1924

ALWAYS DEMAND THE LABEL.

P12 : 03

TELEPHONE 434-2515
AREA CODE 313

MUR 1641

84 OCT 5 P1:25

October 4, 1984

Federal Election Commission
Washington D C 20463

Attention: Lee Ann Elliott

Dear Ms. Elliott:

In response to your letter of September 26, 1984 our attorney, Kathy Kreiger, is out of her office in another state for a trial. I have forwarded all the information to her office and she is to contact this Local Union 512 immediately upon her return.

At this time I am requesting a ten (10) day extension, until I can confer with our attorney, Kathy Krieger.

Respectfully,

John W. Martin

John W. Martin
Financial Secretary & Bus. Mgr.

JWM/mdw

8504054209 5

AFTER FIVE DAYS RETURN TO

LOCAL UNION No. 512

FROM:

Local Union 512
5300 W Michigan Ave
Ypsilanti MI 48197

Customer Number, if any:

TO:

Federal Election Commission
Washington DC 20463
ATTN: Lee Ann Elliott

Label 11-B, Jan. 1983 ★ U.S.G.P.O. 1982-384-133

EXPRESS MAIL NEXT DAY SERVICE — POST OFFICE TO ADDRESSEE

ORIGIN

AP
48197
4pm 16-50
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DESTINATION

10/5 2 11

DELIVERY WAS ATTEMPTED

Date: Time:

Notice Left By:

EXPRESS MAIL SERVICE

▼ TO REMOVE PEEL BACK HERE ▼

U.S. POSTAGE
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OCT 5 '84
YPSILANTI MICH
PRINTED PAPER

OCT 5 PM 00

RECEIVED AT THE FEC
GCC#4961
84 OCT 3 A8:43

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: Edward Wendel, Assistant General Counsel

ADDRESS: United Food & Commercial Workers International Union
1775 K Street, N.W.
Washington, D.C. 20006

TELEPHONE: (202) 466-1522

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

10/1/84
Date

Edward P. Wendel
Signature

RESPONDENT'S NAME: Marvin Hrubes, Executive Assistant, Public Affairs and Communications Department

ADDRESS: United Food & Commercial Workers International Union
1775 K Street, N.W.
Washington, D.C. 20006

HOME PHONE:

BUSINESS PHONE: (202) 223-3111

84 OCT 3 A9:54

8504054209 7

UFCW

United Food & Commercial Workers
International Union, AFL-CIO & CLC
1775 K Street, N.W.
Washington, D.C. 20006

Maura White
Federal Election Commission
Washington, D.C. 20463

2001 OCT 3 A8:43

GCC#4953

LAW OFFICES
KIRSCHNER, WEINBERG, DEMPSEY, WALTERS & WILLIG
SUITE 800
1100 17TH STREET, N.W.
WASHINGTON, D.C. 20036

(202) 775-8900

RICHARD KIRSCHNER
LARRY P. WEINBERG
JOHN C. DEMPSEY†
JONATHAN WALTERS
DEBORAH R. WILLIG

ALAINE S. WILLIAMS*
MARILYN S. MAY*
ROBERT T. FENDT*
ROBERT TIM BROWN*
BARBARA KRAFT
MARTHA WALFOORT
LEE W. JACKSON
STUART W. DAVIDSON*
CRAIG BECKER

†ALSO ADMITTED IN VIRGINIA
*NOT ADMITTED IN DISTRICT OF COLUMBIA

PHILADELPHIA OFFICE
SUITE 1100
1429 WALNUT STREET
PHILADELPHIA, PA. 19102
(215) 568-8900

HARRISBURG OFFICE
CITY TOWERS BUILDING
HARRISBURG, PA. 17101
(717) 233-5615

VIRGINIA OFFICE
10311 COMMONWEALTH BLVD.
FAIRFAX, VA. 22032

October 2, 1984

FEC MAIL CENTER
OCT 2 4 33 PM '84

8504054209 9

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

Re: MUR 1641

Dear Mr. Steele:

On or about September 27, 1984, Charles Hughes, President of AFSCME Local 372 received a letter from Chairman Elliot advising him that the Federal Election Commission had found reason to believe that Local 372 had violated the Federal Election Campaign Act. I have been advised by Mr. Hughes that he has designated us to serve as counsel for Local 372, but we have not yet received the designation of counsel form. As soon as we receive it, we will forward it to the Commission.

Your letter gave Mr. Hughes ten days within which to respond to your reason to believe finding as well as to the Order To Submit Written Answers to certain questions enclosed therewith. I am writing this letter for the purpose of requesting an extension of five days of that deadline for response.

I was not advised of the pendency of this matter until late in the day on October 1, when I was contacted by Local 372's regular counsel with a request that we handle this matter on behalf of Locl 372. Upon learning the identity of your staff member assigned to this matter, I immediately attempted to contact her, but was not able to do so until the afternoon of October 2, at which time I advised her that with the problems of transmitting information back and forth between New York City, where Local 372 is located, and my office in Washington, D.C., and in sending completed answers to our client in New York City

so that they may be answered under oath in accordance with the Commission's Order, it will be virtually impossible for us to submit our response within the time constraints established by the Commission. While I understand that the Commission is under certain pressures to resolve this matter as expeditiously as possible, I do not believe the five day extension we are requesting will be prejudicial to the Commission or to any interested party, especially in light of the fact that reason to believe letters have been sent to, but not yet received by, numerous other respondents who stand in positions similar to this one.

For the foregoing reasons, we submit that the extension requested herein is both justified and necessary. Please advise me as soon as possible as to whether our request is granted.

Very truly yours,

Larry P. Weinberg

LPW:mlg

8504054210 0

RECEIVED AT THE FEC
GCG4939
84 OCT 2 AM : 22

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1641

NAME OF COUNSEL: William C. Oldaker

ADDRESS: EPSTEIN, BECKER, BORSODY & GREEN, P.C.
1140 19th Street, N.W., Suite 900
Washington, D.C. 20036

TELEPHONE: 861-0900

84 OCT 2 P12: 35

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

9/28/84
Date

Rachelle Horowitz
Signature

RESPONDENT'S NAME: Rachelle Horowitz

ADDRESS: American Federation of Teachers, COPE Department
555 New Jersey Avenue, N.W.
Washington, D.C. 20001

HOME PHONE: (202) 488-8877

BUSINESS PHONE: (202) 879-4436

8504054210 1

STATEMENT OF DESIGNATION OF COUNSEL

RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY
GCC#4939
84 OCT 2 A8:34

MUR 1641

NAME OF COUNSEL: William C. Oldaker

ADDRESS: EPSTEIN, BECKER, BORSODY & GREEN, P.C.
1140 19th Street, N.W., Suite 900
Washington, D.C. 20036

TELEPHONE: 861-0900

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

9/28/84
Date

Rachelle Horowitz
Signature

RESPONDENT'S NAME: Rachelle Horowitz

ADDRESS: American Federation of Teachers, COPE Department
555 New Jersey Avenue, N.W.
Washington, D.C. 20001

HOME PHONE: (202) 488-8877

BUSINESS PHONE: (202) 879-4436

84 OCT 2 A10:08

3504054210 2

EPSTEIN BECKER BORSODY & GREEN, P.C.
1140 19TH STREET, N.W.
WASHINGTON, D.C. 20036

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

94 OCT 21 AM 11:22

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JODY C. RANSOM

DATE: SEPTEMBER 25, 1984

SUBJECT: MUR 1641 - Orders

The attached orders, which were Commission approved in Executive Session on September 18, 1984 by a vote of 6-0, have been signed and sealed this date.

Attachments:
Orders (56)

3504054210 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 25, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

David M. Ifshin, Esquire
Carolyn U. Oliphant, Esquire
Mondale for President Committee, Inc.
2201 Wisconsin Avenue, N.W.
Suite 100
Washington, D.C. 20007

Re: MUR 1641

Dear Mr. Ifshin and Ms. Oliphant:

By letter dated July 3, 1984, you were informed that the Commission determined on June 12, 1984, that your clients, Walter F. Mondale, the Mondale for President Committee, Inc., and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a). The response of your clients to the interrogatories issued by the Commission was submitted on August 20, 1984. This is to inform you that on September 18, 1984, the Commission determined that your clients further violated 2 U.S.C. § 441b(a) by accepting the payment of telephone installation and deposit costs from the following labor organizations whose facilities it utilized:

a. American Federation of Teachers
b. American Federation of Teachers, Local 2309 (Oklahoma)
c. Massachusetts Federation of Teachers (AFT)
d. CWA, Local 1365 (New Hampshire)
e. National Education Association (MEA-NEA), Local 1 (Michigan)
f. CWA, Local 6010 (Oklahoma)
g. Massachusetts Teachers Association
h. Bakery, Confectionary and Tobacco Workers Union, Local 275 (Maine)
i. United Union of Roofers, Waterproofers and Allied Workers, Local 70 (Michigan)
j. Quad Cities Federation of Labor
k. International Brotherhood of Electrical Workers, Local 252 (Michigan)
l. Burlington County Education Association
m. International Brotherhood of Electrical Workers, Local 2320 (New Hampshire)
n. United Brotherhood of Carpenters and Joiners of America, Local 678 (Iowa)

8504021005

o. United Brotherhood of Carpenters and Joiners of America, Local 512 (Michigan)
p. United Brotherhood of Carpenters and Joiners of America, Local 766 (Minnesota)
q. United Brotherhood of Carpenters and Joiners of America, Local 7 (Minnesota)
r. Muskogee and Vicinity Central Labor Council
s. Keokuk Labor Fraternal Council
t. Black Hawk Labor Temple Corp.
u. United Food and Commercial Workers International Union
v. United Food and Commercial Workers International Union, Local 6 (Minnesota)
w. United Food and Commercial Workers International Union, Local 47-P (Nebraska)
x. United Food and Commercial Workers International Union, Local 1439
y. Clinton Labor Congress (AFL-CIO)
z. International Brotherhood of Electrical Workers, Local 405 (Iowa)
aa. International Brotherhood of Electrical Workers, Local 292 (Minnesota)
bb. Hotel, Hospital, Restaurant, and Tavern Employees Union, Local 21 (Minnesota)
cc. United Steelworkers of America, Local 3539 (Minnesota)
dd. United Paperworkers International Union, Local 75 (New Hampshire)
ee. United Paperworkers International Union, Local 61 (New Hampshire)
ff. Muskingan County UAW, C.A.P. Council
gg. United Auto Workers, Local 442 (Iowa)
hh. Clark County Classroom Teachers Association (Nevada)
ii. United Food and Commercial Workers International Union, Local 71 (Iowa)
jj. United Food and Commercial Workers International Union, Local 1169 (Iowa)
kk. United Food and Commercial Workers International Union, Local 31P (Iowa)
ll. Greater Flint AFL-CIO Council
mm. International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers
nn. Maine AFL-CIO
oo. Washington State Labor Council
pp. Ohio AFL-CIO
qq. AFSCME District Council 037, Local 372 (New York)
rr. United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the U.S. and Canada, Local 190 (Michigan)
ss. United Steelworkers of America, Local 2944 (New Hampshire)

8504054210 6

tt. Minneapolis Building Trades Council
uu. Trowel Trades, Local 14 (Michigan)
vv. United Food and Commercial Workers International Union, Local 1161 (Minnesota)
ww. CWA, Local 4305 (Ohio)
xx. Brevard County Central Labor Council
yy. Hillsborough County Central Labor Council
zz. Laborers' International Union of North America
aaa. Wisconsin State AFL-CIO

Under the Act, you have an opportunity to demonstrate that no action should be taken against your clients. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with your response to the enclosed Order to Answer Questions, must be submitted under oath within ten days of your receipt of this notification. An extension of time in which to respond to the enclosed questions will not be granted in this matter.

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

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

If you have any questions, please contact Maura White, the staff member assigned to this matter, at 523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Order

8504021007

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Walter F. Mondale	)	
Mondale for President Committee, Inc.	)	MUR 1641
Michael S. Berman, as treasurer	)	

ORDER TO SUBMIT WRITTEN ANSWERS

TO: Michael S. Berman, Treasurer
Mondale for President Committee, Inc.
Suite 100
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to answer the following questions:

1. Identify all labor organizations, including national unions, international unions, local unions, state central bodies, local central bodies, departments, and any and all units whatsoever, whose telephones were utilized by, or leased to, the Mondale for President Committee, Inc.

2. For each labor organization, including national unions, international unions, local unions, state central bodies, local central bodies, departments, and any and all units whatsoever identified in response to question one, state the mailing address of the labor organization, or any other address for the labor organization in the possession of the Mondale for President Committee, Inc. or any of its agents.

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Answers to the above questions are to be compiled from all documents and materials, including invoices, in the possession of the Mondale for President Committee or any of its agents. Such answers are to be submitted under oath and forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept. 1984.

Lee Ann Elliott
Chairman

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

8504042109

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 25, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Rachelle Horowitz
Director of Committee on
Political Education
American Federation of Teachers
555 New Jersey Avenue, N.W.
Washington, D.C. 20001

Re: MUR 1641

Dear Ms. Horowitz:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the American Federation of Teachers ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

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stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

3504054211

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: American Federation of Teachers

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054211 2

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504211 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 25, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

David Renfro, President
American Federation of Teachers, Local 2309
1524 Linwood
Oklahoma City, Oklahoma 73106

Re: MUR 1641

Dear Mr. Renfro:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the American Federation of Teachers, Local 2309 ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

3504054211 4

stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

8504054211 5

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: American Federation of Teachers, Local 2309

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

3504054211 6

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504542117

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 25, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Joan A. Buckley, Director of Organization
Massachusetts Federation of Teachers
296 Boylston
Boston, Massachusetts 02116

Re: MUR 1641

Dear Ms. Buckley:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the Massachusetts Federation of Teachers ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

3504211 8

stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

8504054211 9

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: Massachusetts Federation of Teachers

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054210

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054211

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 25, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dan A. Beauregard, President
CWA, Local 1365
Box 68
North Andover, Massachusetts 01845

Re: MUR 1641

Dear Mr. Beauregard:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the CWA, Local 1365 ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

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stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

3504054213

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: CWA, Local 1365

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054212 4

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 25, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Randy L. Sanders, President
CWA, Local 6010
P.O. Box 247
Tishomingo, Oklahoma 73460

Re: MUR 1641

Dear Mr. Sanders:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the CWA, Local 6010 ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

3504212 6

stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: CWA, Local 6010

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504212 8

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054211 29

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 25, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Rick Flynn, President
MEA-NEA, Local 1
37 Crocker Boulevard
Mt. Clemens, Michigan 48043

Re: MUR 1641

Dear Mr. Flynn:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the MEA-NEA, Local 1 ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

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stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
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Order with questions
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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: MEA-NEA, Local 1

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504021 32

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054213 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 25, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Edward P. Sullivan
Executive Director
Massachusetts Teachers Association
28 Ashburton Place
Boston, Massachusetts 02108

Re: MUR 1641

Dear Mr. Sullivan:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the Massachusetts Teachers Association ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

3504054213 4

stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: Massachusetts Teachers Association

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504042136

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054213 7

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 25, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Carroll P. St. Peter, President
Bakery, Confectionary and Tobacco Workers Union,
Local 275
154 State Street
Presque Isle, Maine 04769

Re: MUR 1641

Dear Mr. St. Peter:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the Bakery, Confectionary and Tobacco Workers Union, Local 275 ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

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stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: Bakery, Confectionary and Tobacco
Workers Union, Local 275

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054210

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054211

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 25, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

William Darryl Barber
United Union of Roofers, Waterproofers and
Allied Workers, Local 70
5300 West Michigan Avenue
Ypsilanti, Michigan 48197

Re: MUR 1641

Dear Mr. Barber:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the United Union of Roofers, Waterproofers and Allied Workers, Local 70 ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

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stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

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Procedures
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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: United Union of Roofers, Waterproofers and
Allied Workers, Local 70

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054214

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054215

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jerry A. Kearns
Keokuk Labor Fraternal Council
Labor Temple
30 Blondeau
Keokok, Iowa 52632

Re: MUR 1641

Dear Mr. Kearns:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the Keokuk Labor Fraternal Council ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

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stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

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Designation of counsel form

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: Keokuk Labor Fraternal Council

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054214 8

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054249

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Roy L. Hawkins, President
Muskogee and Vicinity Central Labor Council
100 N. York Street
Muskogee, Oklahoma 74401

Re: MUR 1641

Dear Mr. Hawkins:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the Muskogee and Vicinity Central Labor Council ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

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stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

8504054215 1

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: Muskogee and Vicinity Central Labor Council

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

3504052152

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

George R. Zastrow, President
United Brotherhood of Carpenters and Joiners
of America, Local 7
312 Central Avenue
Minneapolis, Minnesota 55414

Re: MUR 1641

Dear Mr. Zastrow:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the United Brotherhood of Carpenters and Joiners of America, Local 7 ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

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stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott
Chairman

Enclosures
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Order with questions
Designation of counsel form

8504054215

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: United Brotherhood of Carpenters and Joiners of America, Local 7

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054215

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Michael Hoiseth, Business Representative
United Brotherhood of Carpenters and
Joiners of America, Local 766
404 East Main Street
Albert Lea, Minnesota 55414

Re: MUR 1641

Dear Mr. Hoiseth:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the United Brotherhood of Carpenters and Joiners of America, Local 766 ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

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stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

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Designation of counsel form

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: United Brotherhood of Carpenters and Joiners
of America, Local 766

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

3504042160

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John Martin, Business Manager
United Brotherhood of Carpenters and Joiners
of America, Local 512
5300 West Michigan Avenue
Ypsilanti, Michigan 48197

Re: MUR 1641

Dear Mr. Martin:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the United Brotherhood of Carpenters and Joiners of America, Local 512 ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

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stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: United Brotherhood of Carpenters and Joiners
of America, Local 512

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

3504054216 4

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James L. Floyd, Business Representative
United Brotherhood of Carpenters and Joiners
of America, Local 678
1638 Central
Dubuque, Iowa 52001

Re: MUR 1641

Dear Mr. Floyd:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the United Brotherhood of Carpenters and Joiners of America, Local 678 ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

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stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: United Brotherhood of Carpenters and
Joiners of America, Local 678

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054216S

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Martin J. Fitzpatrick, Business Manager
IBEW, Local 2320
46 - 3rd Street
Manchester, New Hampshire 03102

Re: MUR 1641

Dear Mr. Fitzpatrick:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the IBEW, Local 2320 ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

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stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
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Order with questions
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8504054211

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: IBEW, Local 2320

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept, 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054217 2

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Angel M. Bertolino, President
Burlington County Education Association
East Ridge Plaza
Beverly Rancocas Road
Willingboro, New Jersey 08406

Re: MUR 1641

Dear Mr. Bertolino:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the Burlington County Education Association ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

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stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: Burlington County Education Association

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054217 6

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Frank Michelfelder, Business Manager
International Brotherhood of Electrical
Workers, Local 252
6300 West Michigan Avenue
Ypsilanti, Michigan 48197

Re: MUR 1641

Dear Mr. Michelfelder:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the International Brotherhood of Electrical Workers, Local 252 ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

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stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
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Order with questions
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8504054217 9

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: International Brotherhood of Electrical Workers, Local 252

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054218 0

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054218I

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Leonard L. Davis, President
Quad Cities Federation of Labor
P.O. Box 1116
Rock Island, Illinois 61201

Re: MUR 1641

Dear Mr. Davis:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the Quad Cities Federation of Labor ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

8504054218 2

stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

8504054218 3

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: Quad Cities Federation of Labor

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054218 4

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504218 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Donald J. Frost, President
Black Hawk Labor Temple Corp.
1695 Burton Avenue
Waterloo, Iowa 50703

Re: MUR 1641

Dear Mr. Frost:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the Black Hawk Labor Temple Corp. ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

8504021886

stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

8504054218 7

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: Black Hawk Labor Temple Corp.

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504021888

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054218 9

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Martin Hrubes, Executive Assistant
UFCW
1775 K Street, N.W.
Washington, D.C. 20006

Re: MUR 1641

Dear Mr. Hrubes:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the UFCW ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

8504054219 0

stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

8504054219 1

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: UFCW

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504042192

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054219 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Derby G. Olsen, President
UFCW, Local 6
404 East Main Street
Albert Lea, Minnesota 56007

Re: MUR 1641

Dear Mr. Olsen:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the UFCW, Local 6 ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

8504054219 4

stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

8504054219 5

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: UFCW, Local 6

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054219 6

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054219 7

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Max V. Graham, President
UFCW, Local 47-P
5418 South 27th Street
Omaha, Nebraska 68107

Re: MUR 1641

Dear Mr. Graham:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the UFCW, Local 47-P ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

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stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

8504054219 9

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: UFCW, Local 47-P

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054200

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054220 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Sean Harrigan, President
UFCW, Local 1439
Box 5298
Spokane, Washington 99205

Re: MUR 1641

Dear Mr. Harrigan:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the UFCW, Local 1439 ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

8504054220 2

stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

8504042203

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: UFCW, Local 1439

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

3504054204

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054220 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Steve Schwarz, County Coordinator
Clinton Labor Congress, AFL-CIO
c/o Ronald Rimley
267 - 20th Avenue, North
Clinton, Iowa 52732

Re: MUR 1641

Dear Mr. Schwarz:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the Clinton Labor Congress, AFL-CIO ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

3504542206

stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

8504054207

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: Clinton Labor Congress, AFL-CIO

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054208

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054209

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James W. Vick
IBEW, Local 405
1211 Wily Boulevard SW
Cedar Rapids, Iowa 52404

Re: MUR 1641

Dear Mr. Vick:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the IBEW, Local 405 ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

8504054210

stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

8504542211

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: IBEW, Local 405

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054212

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054221 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Owen Schleisman, Business Manager
IBEW, Local 292
312 Central Avenue S.E.
Minneapolis, Minnesota 55414

Re: MUR 1641

Dear Mr. Schleisman:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the IBEW, Local 292 ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

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stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

8504054221 5

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: IBEW, Local 292

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept, 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054221 5

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054221 7

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Buck Jackson, Business Manager
Hotel, Hospital, Restaurant and Tavern
Employees, Local 21
Box 847
Rochester, Minnesota 55903

Re: MUR 1641

Dear Mr. Jackson:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the Hotel, Hospital, Restaurant and Tavern Employees, Local 21 ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

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stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

8504054219

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: Hotel, Hospital, Restaurant and Tavern
Employees, Local 21

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054220

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054221

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Richard D. Hagen, President
United Steelworkers of America, Local 3539
404 East Main
Albert Lea, Minnesota 56007

Re: MUR 1641

Dear Mr. Hagen:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the United Steelworkers of America, Local 3539 ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

8504222

stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

8504054222223

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: United Steelworkers of America, Local 3539

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept, 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054224

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054222 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Edward Ferrar, President
Andy Meyers, Regional Coordinator
UPIU, Local 75
P.O. Box G
Berlin, New Hampshire 02570

Re: MUR 1641

Dear Mr. Ferrar and Mr. Meyers:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the UPIU, Local 75 ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

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stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

8504054222 7

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: UPIU, Local 75

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept, 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054228

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054229

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Wilbur V. Barnett, President
UPIU, Local 61
RFD #1
Groveton, New Hampshire 03582

Re: MUR 1641

Dear Mr. Barnett:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the UPIU, Local 61 ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

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stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

8504054223 1

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: UPIU, Local 61

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054232

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054223

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Douglas D. Smith, Chairman
Muskingan County UAW, CAP Council
490 Western
Muskigan, Ohio 49440

Re: MUR 1641

Dear Mr. Smith:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the Muskingan County UAW, CAP Council ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

8504054223 4

stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

3504054223

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: Muskingan County UAW, CAP Council

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054236

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054223 7

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Charles Chandler, President
UAW, Local 442
820 James
Webster City, Iowa 50595

Re: MUR 1641

Dear Mr. Chandler:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the UAW, Local 442 ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

8504054223 8

stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

8504054223 9

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: UAW, Local 442

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054224O

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

3504054224 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Chris Giunchigliani, President
Clark County Classroom Teachers Association
1212 Casino Center
Las Vegas, Nevada 89104

Re: MUR 1641

Dear Giunchigliani:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the Clark County Classroom Teachers Association ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

8504054242

stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

8504054224 3

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: Clark County Classroom Teachers Association

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054224 4

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054245

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Richard L. Johnson, Secretary-Treasurer
Wayne Huntsman, President
UFCW, Local 71
Route 2, Box 40
Jefferson, South Dakota 57038

Re: MUR 1641

Dear Mr. Johnson and Mr. Huntsman:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the UFCW, Local 71 ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

8504054224 6

stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

8504054224 7

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: UFCW, Local 71

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054248

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054224 9

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Berle M. Chaplin, Financial Secretary
Ken Abbas, Assistant Financial Representative
UFCW, Local 1169
Box 373
Hubbard, Iowa 50122

Re: MUR 1641

Dear Mr. Chaplin and Mr. Abbas:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the UFCW, Local 1169 ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

8504054225O

stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

3504054251

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: UFCW, Local 1169

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054252

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054225 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Paul Fortune
Jack Dorman
UFCW, Local 31P
424 - 1st Avenue South
Fort Dodge, Iowa 50501

Re: MUR 1641

Dear Mr. Fortune and Mr. Dorman:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the UFCW, Local 31P ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

3504225 4

stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

8504054225

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: UFCW, Local 31P

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054225 6

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054225 7

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Chaplin Cook, Secretary/Treasurer
Greater Flint AFL-CIO Council
Box 825
Flint, Michigan 48501

Re: MUR 1641

Dear Mr. Cook:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the Greater Flint AFL-CIO Council ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

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stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

8504054225 9

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: Greater Flint AFL-CIO Council

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054226O

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054226 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Charles W. Jones, International President
International Brotherhood of Boilermakers,
Iron Ship Builders, Blacksmiths, Forgers
and Helpers
New Brotherhood Building
Kansas City, Kansas 66101

Re: MUR 1641

Dear Mr. Jones:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

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stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

8504054226 3

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: International Brotherhood of Boilermakers,
Iron Ship Builders, Blacksmiths, Forgers and Helpers

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054226 4

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054265

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Charles O'Leary, President
Maine AFL-CIO
72 Center Street
Box 70
Brewer, Maine 04412

Re: MUR 1641

Dear Mr. O'Leary:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the Maine AFL-CIO ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

8504054226 6

stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

8504054226 7

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: Maine AFL-CIO

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054226 8

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Lawrence Kenney, Secretary/Treasurer
Washington State Labor Council
2815 Second Avenue
Seattle, Washington 98121

Re: MUR 1641

Dear Mr. Kenney:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the Washington State Labor Council ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

8504054226 9

stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
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Order with questions
Designation of counsel form

8504054227 0

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: Washington State Labor Council

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054227 1

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054227 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Milan Marsh, President
Jack Reihl, Secretary/Treasurer
Ohio AFL-CIO
271 E. State Street
Cleveland, Ohio 43215

Re: MUR 1641

Dear Mr. Marsh and Mr. Reihl:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the Ohio AFL-CIO ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

8504054227 3

stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott
Chairman

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: Ohio AFL-CIO

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054227 5

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054276

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Charles Hughes, President
AFSCME District Council 037, Local 372
125 Barclay Street
New York, N.Y. 10007

Re: MUR 1641

Dear Mr. Hughes:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the AFSCME District Council 037, Local 372 ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

8504054227 7

stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott
Chairman

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: AFSCME District Council 037, Local 372

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054279

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Bruce Towler, Business Manager
United Association of Journeymen and
Apprentices of the Plumbing and Pipe Fitting
Industry of the U.S. and Canada, Local 190
5300 West Michigan Avenue
Ypsilanti, Michigan 48197

Re: MUR 1641

Dear Mr. Towler:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the U.S. and Canada, Local 190 ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

8504042281

stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the U.S. and Canada, Local 190

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504042283

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054228 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Alden G. Boardman, President
United Steelworkers of America, Local 2944
24 Main Street
Claremont, New Hampshire 03743

Re: MUR 1641

Dear Mr. Boardman:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the United Steelworkers of America, Local 2944 ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

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stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: United Steelworkers of America, Local 2944

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054228 7

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054228

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Donald Early, Business Manager
Minneapolis Building Trades Council
312 Central Avenue
Room 556
Minneapolis, Minnesota 55414

Re: MUR 1641

Dear Mr. Early:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the Minneapolis Building Trades Council ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

8504042289

stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

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8504054229 0

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: Minneapolis Building Trades Council

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054229 1

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054292

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Sam Palazzolo, Business Manager
Trowel Trades, Local 14
International Brotherhood of Bricklayers and
Allied Craftsman
5300 West Michigan Avenue
Ypsilanti, Michigan 48197

Re: MUR 1641

8504042293

Dear Mr. Palazzolo:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the Trowel Trades, Local 14 ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: Trowel Trades, Local 14, International Brotherhood of Bricklayers and Allied Craftsman

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054229 5

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054295

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Henry Martin, Chief Steward
UFCW, Local 1161
Box 183
Worthington, Minnesota 56187

Re: MUR 1641

Dear Mr. Martin:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the UFCW, Local 1161 ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

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stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: UFCW, Local 1161

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054229 9

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054230 0

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

CWA, Local 4305
c/o Keith Estes, Vice-President
1127 Euclid Avenue, #473
Cleveland, Ohio 44115

Re: MUR 1641

Dear Mr. Estes:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the CWA, Local 4305 ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

8504054230 1

stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

8504054230 2

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: CWA, Local 4305

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054230 3

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054230 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Hillsborough County Central Labor Council
1701 North Franklin Street
Tampa, Florida 33602

Re: MUR 1641

Dear Sir or Madam:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the Hillsborough County Central Labor Council ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

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stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

8504054230 6

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: Hillsborough County Central Labor Council

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054230 7

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054230 8

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Charles L. Bell, President
Brevard County Central Labor Council
P.O. Box 3787
Cocoa, Florida 32922

Re: MUR 1641

Dear Mr. Bell:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the Brevard County Central Labor Council ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

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stating the name, address and telephone number of such co
and a statement authorizing such counsel to receive any
notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

8504054231 0

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: Brevard County Central Labor Council

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054231

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054231 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Angelo Fosco, President
Laborers International Union of North America
905 - 16th Street, N.W.
Washington, D.C. 20006

Re: MUR 1641

8504023 13

Dear Mr. Fosco:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the Laborers International Union of North America ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To:Laborers International Union of North America

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

3504054231 3

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054231 6

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John W. Schmitt, President
Wisconsin AFL-CIO
6333 W. Bluemound Road
Milwaukee, Wisconsin 53213

Re: MUR 1641

Dear Mr. Schmitt:

On September 18, 1984, the Federal Election Commission determined that there is reason to believe the Wisconsin AFL-CIO ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

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stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Procedures
Order with questions
Designation of counsel form

3504054231 8

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: Wisconsin AFL-CIO

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054239

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054232O

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 25, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert H. Chanin, General Counsel
National Education Association
1201 - 16th Street, N.W.
Washington, D.C. 20036

Re: MUR 1641

Dear Mr. Chanin:

The Federal Election Commission notified your clients, the National Education Association ("NEA"), the Iowa State Education Association ("Iowa NEA"), the Alabama Education Association ("Alabama NEA") and, the National Education Association of New Hampshire ("New Hampshire NEA"), on March 9, 1984, of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to each of your clients at that time. We acknowledge receipt on April 13, 1984, of your clients' explanations of this matter.

Upon further review of the allegations contained in the complaint and information supplied by your clients, the Commission, on September 18, 1984, determined that there is reason to believe the New Hampshire NEA and the Iowa NEA violated 2 U.S.C. § 441b(a). Specifically, it appears that the New Hampshire NEA and the Iowa NEA incurred the total cost of the installation of telephones, including deposits, utilized by agents of the Mondale for President Committee at the unions' respective facilities. In addition, this is to inform you that the Commission also determined to take no action at this time with respect to the NEA and the Alabama NEA.

8504023211

With respect to the New Hampshire NEA and the Iowa NEA please submit answers to the enclosed order to answer questions within ten days of your receipt of this letter. You may also submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter.

The Office of General Counsel would like to settle this matter through conciliation prior to a finding of probable cause; however, in the absence of any information which demonstrates that no further action should be taken against your clients, the Office of General Counsel must proceed to the next compliance stage.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that your clients wish the matter to be made public. If you have any questions, please contact Maura White, the staff member assigned to this matter, at 523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosure
Orders with questions (2)

8504054232 2

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: National Education Association of New Hampshire ("New Hampshire NEA")

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054233

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: Iowa State Education Association ("Iowa NEA")

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054234

INTERROGATORIES TO: Iowa NEA

1. State whether the Iowa NEA or any of its agents permitted the telephones of the labor organization to be used by agents of the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

   a) the dates of such use by MPC;
   b) the location of the telephones used;
   c) the total amount of time the telephones were used by MPC; and,
   d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

   a) the date that each of the telephones used by MPC were installed;
   b) the cost of the installations;
   c) the purpose of the installations; and
   d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation; and,
   e) the amount of any deposits paid by the Iowa NEA in connection with the telephones utilized by MPC.

4. If the answer to question 1 is yes, state the amount for which the Iowa NEA billed MPC for any portion of the telephone installation and/or deposit costs incurred.

8504054232 5

INTERROGATORIES TO: New Hampshire NEA

1. State whether the New Hampshire NEA or any of its agents permitted the telephones of the labor organization to be used by agents of the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

   a) the dates of such use by MPC;
   b) the location of the telephones used;
   c) the total amount of time the telephones were used by MPC; and,
   d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

   a) the date that each of the telephones used by MPC were installed;
   b) the cost of the installations;
   c) the purpose of the installations;
   d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation; and,
   e) the amount of any deposits paid by the New Hampshire NEA in connection with the telephones utilized by MPC.

4. If the answer to question 1 is yes, state the amount for which the New Hampshire NEA billed MPC for any portion of the telephone installation and/or deposit costs incurred.

8504054236

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 25, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Margaret E. McCormick, Esquire
AFL-CIO
815 Sixteenth Street
Washington, D.C. 20006

Re: MUR 1641

Dear Ms. McCormick:

The Federal Election Commission notified your clients, the American Federation of Labor and Congress of Industrial Organizations ("AFL-CIO"), the New Hampshire State Labor Council ("New Hampshire AFL-CIO"), the Iowa Federation of Labor ("Iowa AFL-CIO"), and the Alabama Labor Council ("Alabama AFL-CIO"), on March 9, 1984, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to each of your clients at that time. We acknowledge receipt on April 11, 1984, of your clients' explanations of this matter.

Upon further review of the allegations contained in the complaint and information supplied by your clients, the Commission, on September 18, 1984, determined that there is reason to believe the New Hampshire AFL-CIO violated 2 U.S.C. § 441b(a). Specifically, it appears that the New Hampshire AFL-CIO incurred the total cost of the installation of telephones, including deposits, utilized by agents of the Mondale for President Committee, Inc. at Local 5173 of the United Steelworkers of America (Laconia, N.H.), and the deposit costs of a telephone utilized by agents of the Mondale for President Committee at Local 490 of the I.B.E.W. (Dover, N.H.). In addition, this is to inform you that the Commission also determined on September 18, 1984, to take no action at this time with respect to the AFL-CIO, the Iowa AFL-CIO, and the Alabama AFL-CIO.

8504023027

With respect to the New Hampshire AFL-CIO please submit answers to the enclosed order to answer written questions within ten days of your receipt of this letter. You may also submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter.

The Office of General Counsel would like to settle this matter through conciliation prior to a finding of probable cause; however, in the absence of any information which demonstrates that no further action should be taken against your client, the Office of General Counsel must proceed to the next compliance stage.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that your client wishes the matter to be made public. If you have any questions, please contact Maura White, the staff member assigned to this matter, at 523-4143.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosure
Order with questions

3504054232 8

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: New Hampshire State Labor Council ("New Hampshire AFL-CIO")

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this 25th day of Sept., 1984.

Lee Ann Elliott

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

8504054239

INTERROGATORIES TO: New Hampshire AFL-CIO

1. With respect to telephones installed by the New Hampshire AFL-CIO at the offices of Local 490 of the International Brotherhood of Electrical Workers, 16 Pierce Street, Dover, New Hampshire, and utilized by agents of the Mondale for President Committee, Inc. (hereinafter "MPC"), please state:

(a) the amount of deposits paid by the New Hampshire AFL-CIO in connection with the installation of the telephones; and,

(b) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the New Hampshire AFL-CIO prior to the installation of the telephones utilized by MPC, including the substance of each such conversation.

2. With respect to the telephone(s) installed by the New Hampshire AFL-CIO at the offices of Local 5173 of the United Steelworkers of America, 358 South Main Street, Laconia, New Hampshire, and utilized by agents of MPC, please state:

(a) the date that the telephone(s) used by MPC was installed;
(b) the cost of the installation;
(c) the amount of deposits paid by the New Hampshire AFL-CIO in connection with the telephone(s) utilized by MPC; and,
(d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the New Hampshire AFL-CIO prior to the installation of the telephone(s) utilized by MPC, including the substance of each such conversation; and
(e) the amount for which the New Hampshire AFL-CIO billed MPC for telephone installation and/or deposit costs.

8504042330

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Walter F. Mondale;	)	
Mondale for President Committee, Inc.;	)	MUR 1641
Michael S. Berman, as treasurer;	)	
et al.	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of September 18, 1984, do hereby certify that the Commission took the following actions in MUR 1641:

1. Decided by a vote of 5-1 to

   a) Find reason to believe the New Hampshire State Labor Council violated 2 U.S.C § 441b(a).

   b) Find reason to believe the National Education Association of New Hampshire violated 2 U.S.C. § 441b(a).

   c) Find reason to believe the Iowa State Education Association violated 2 U.S.C. § 441b(a).

   Commissioners Aikens, Elliott, McDonald, McGarry, and Reiche voted affirmatively for the decision; Commissioner Harris dissented.

(Continued)

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2. Decided by a vote of 6-0 to take no action at this time with respect to recommendations number 4, 5, 6, 7, and 8 in the General Counsel's report dated September 12, 1984.

   Commissioners Aikens, Elliott, Harris, McDonald, McGarry, and Reiche voted affirmatively for the decision.

3. Decided by a vote of 6-0 not to close the file as it pertains to the National Education Association, the American Federation of Labor and Congress of Industrial Organizations, the Iowa Federation of Labor, and the Alabama Labor Council.

   Commissioners Aikens, Elliott, Harris, McDonald, McGarry, and Reiche voted affirmatively for the decision.

4. Decided by a vote of 5-1 to

   A. Find reason to believe the following labor organizations violated 2 U.S.C. § 441b(a):

      a) American Federation of Teachers
      b) American Federation of Teachers, Local 2309 (Oklahoma)
      c) Massachusetts Federation of Teachers (AFT)
      d) CWA, Local 1365 (New Hampshire)
      e) National Education Association, Local 1 (Michigan)
      f) CWA, Local 6010 (Oklahoma)
      g) Massachusetts Teachers Association
      h) Bakery, Confectionary and Tobacco Workers Union, Local 275 (Maine)
      i) United Union of Roofers, Waterproofers and Allied Workers, Local 70 (Michigan)

(Continued)

8504054232

j) Quad Cities Federation of Labor
k) International Brotherhood of Electrical Workers, Local 252 (Michigan)
l) Burlington County Education Association
m) International Brotherhood of Electrical Workers, Local 2320 (New Hampshire)
n) United Brotherhood of Carpenters and Joiners of America, Local 678 (Iowa)
o) United Brotherhood of Carpenters and Joiners of America, Local 512 (Michigan)
p) United Brotherhood of Carpenters and Joiners of America, Local 766 (Minnesota)
q) United Brotherhood of Carpenters and Joiners of America, Local 7 (Minnesota)
r) Muskogee and Vicinity Central Labor Council
s) Keokuk Labor Fraternal Council
t) Black Hawk Labor Temple Corp.
u) United Food and Commercial Workers International Union
v) United Food and Commercial Workers International Union, Local 6 (Minnesota)
w) United Food and Commercial Workers International Union, Local 47-P (Nebraska)
x) United Food and Commercial Workers International Union, Local 1439
y) Clinton Labor Congress (AFL-CIO)
z) International Brotherhood of Electrical Workers, Local 405 (Iowa)
aa) International Brotherhood of Electrical Workers, Local 292 (Minnesota)
bb) Hotel, Hospital, Restaurant, and Tavern Employees Union, Local 21 (Minnesota)
cc) United Steelworkers of America, Local 3539 (Minnesota)
dd) United Paperworkers International Union, Local 75 (New Hampshire)
ee) United Paperworkers International Union, Local 61 (New Hampshire)

(Continued)

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ff) Muskingan County UAW, C.A.P. Council
gg) United Auto Workers, Local 442 (Iowa)
hh) Clark County Classroom Teachers Association (Nevada)
ii) United Food and Commercial Workers International Union, Local 71 (Iowa)
jj) United Food and Commercial Workers International Union, Local 1169 (Iowa)
kk) United Food and Commercial Workers International Union, Local 31 (Iowa)
ll) Greater Flint AFL-CIO Council
mm) International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers
nn) Maine AFL-CIO
oo) Washington State Labor Council
pp) Ohio AFL-CIO
qq) AFSCME District Council 337, Local 372 (New York)
rr) United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the U.S. and Canada, Local 190 (Michigan)
ss) United Steelworkers of America, Local 2944 (New Hampshire)
tt) Minneapolis Building Trades Council
uu) Trowel Trades, Local 14 (Michigan)
vv) United Food and Commercial Workers International Union, Local 1161 (Minnesota)
ww) CWA, Local 4305 (Ohio)
xx) Brevard County Central Labor Council
yy) Hillsborough County Central Labor Council
zz) Laborers' International Union of North America
aaa) Wisconsin State AFL-CIO

B. Find reason to believe Walter F. Mondale, Mondale for President Committee, and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a) in connection with its acceptance of telephone installation and deposit costs from the unicns enumerated in the list under A. above.

(Continued)

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Commissioners Aikens, Elliott, McDonald, McGarry, and Reiche voted affirmatively for the decision; Commissioner Harris dissented.

5. Decided by a vote of 6-0 to

A. Approve the letters, orders, and interrogatories attached to the General Counsel's report signed September 12, 1984, subject to the appropriate amendment of the letters pursuant to the actions taken in the meeting of September 18, 1984.

B. Approve the sample letter, order, and interrogatories to be sent to the unions enumerated in Part 4.A. of this certification.

Commissioners Aikens, Elliott, Harris, McDonald, McGarry, and Reiche voted affirmatively for the decision.

Attest:

9-18-84
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE, GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/ mwe

DATE: SEPTEMBER 13, 1984

SUBJECT: MUR 1641 GENERAL COUNSEL'S REPORT SIGNED SEPTEMBER 12, 1984

The above-named document was circulated to the Commission on September 13, 1984 at 11:00 a.m.

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

Commissioner Aikens _____

Commissioner Elliott _____

Commissioner Harris X

Commissioner McDonald _____

Commissioner McGarry _____

Commissioner Reiche _____

This matter will be placed on the Executive Session agenda for TUESDAY, SEPTEMBER 18, 1984

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM TO: CHARLES STEELE, GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JODY C. RANSOM

DATE: SEPTEMBER 10, 1984

SUBJECT: OBJECTION - MUR 1641 General Counsel's Report signed September 6, 1984

The above-named document was circulated to the Commission on Friday, September 7, 1984 at 2:00.

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

Commissioner Aikens	_____
Commissioner Elliott	_____
Commissioner Harris	X
Commissioner McDonald	_____
Commissioner McGarry	_____
Commissioner Reiche	_____

This matter will be placed on the Executive Session agenda for Tuesday, September 18, 1984.

3504042337

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary

FROM: Office of General Counsel

DATE: September 12, 1984

SUBJECT: MUR 1641 - General Counsel's Report

The attached is submitted as an Agenda document

for the Commission Meeting of _____

Open Session _____

Closed Session _____

CIRCULATIONS		DISTRIBUTION	
48 Hour Tally Vote	[X]	Compliance	[X]
Sensitive	[X]		
Non-Sensitive	[ ]	Audit Matters	[ ]
24 Hour No Objection	[ ]	Litigation	[ ]
Sensitive	[ ]		
Non-Sensitive	[ ]	Closed MUR Letters	[ ]
Information	[ ]	Status Sheets	[ ]
Sensitive	[ ]		
Non-Sensitive	[ ]	Advisory Opinions	[ ]
Other	[ ]	Other (see distribution below)	[ ]

8504054238

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY

84 SEP 12 P4:30

In the Matter of	)	
	)	
Walter F. Mondale; Mondale for President Committee, Inc.;	)	MUR 1641
Michael S. Berman, as treasurer, et. al.	)	
	)	SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On June 12, 1984, the Commission determined that there is reason to believe Walter F. Mondale, the Mondale for President Committee ("MPC"), and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a) by failing to pay a portion of the telephone installation and deposit costs incurred by various labor organizations whose facilities MPC utilized. The Commission also determined to hold in abeyance any action against the following respondents which were named in the complaint: the American Federation of Labor and Congress of Industrial Organizations ("AFL-CIO"); the New Hampshire State Labor Council ("New Hampshire AFL-CIO"); the Iowa Federation of Labor ("Iowa AFL-CIO"); the Alabama Labor Council ("Alabama AFL-CIO"); the National Education Association ("NEA"); the National Education Association of New Hampshire ("New Hampshire NEA"); the Iowa State Education Association; and, the Alabama Education Association. In Interim Investigative Report #1 in this matter, the Commission was apprised of the August 20, 1984, response of MPC to the Commission's reason to believe finding and interrogatories in this matter (Attachment 1).

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II. FACTUAL AND LEGAL ANALYSIS

(a) Respondents named in the complaint

Based upon the information presented by counsel for MPC, and the evidence already in hand with respect to the eight labor organizations which are respondents in this matter, it is the recommendation of this office that the Commission find reason to believe the New Hampshire AFL-CIO, the Iowa State Education Association, and the New Hampshire NEA violated 2 U.S.C. § 441b(a) by incurring the total cost of the installation of telephones, including deposits, utilized by MPC at certain labor organizations' facilities.

As discussed in the General Counsel's Report dated June 1, 1984, in this matter, the above three labor organizations have acknowledged that union telephones were utilized by MPC. According to the New Hampshire AFL-CIO, telephones were installed, in connection with the making of internal communications to AFL-CIO members, in the offices of Local 490 of the IBEW in Dover, New Hampshire (nine telephones) and in the offices of Local 5173 of the United Steelworkers of America in Laconia, New Hampshire (two telephones). At Dover, New Hampshire, MPC was apparently permitted to use the nine telephones when they were not needed by the New Hampshire AFL-

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CIO, and in Laconia, New Hampshire, MPC was permitted to use one phone on one day for six hours. 1/ The New Hampshire AFL-CIO maintains that other than the above described telephones in Dover and Laconia, New Hampshire, it "did not permit any of its facilities or equipment, including telephones, to be used" by MPC.

As to the Iowa State Education Association, the Executive Director has attested to the fact that the telephones were utilized by MPC in Red Oak and Algona, Iowa, from the beginning of February 1984 through February 20, 1984, and that in Des Moines, Iowa, telephones were utilized by MPC for two days. 2/With respect to the New Hampshire NEA, the Executive Director has stated that MPC utilized the telephones in the union's building in Concord from November 7, 1983, through February 28, 1984. A copy of the union's lease agreement with MPC, which was submitted by the union, provides for the use of seven telephones.

Reiterating the information contained in its April 1984 response to the complaint in this matter, the August 20, 1984, response of MPC states that it did not pay any portion of the

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1/ According to documentation submitted by the New Hampshire AFL-CIO, MPC was billed $3,981.36 (includes installation costs of $252.98) for its use of telephones in Dover, New Hampshire, and was billed $5.28 for its use of a telephone in Laconia, New Hampshire. The 1984 July Monthly Report of MPC reports payment of $3,986.64 ($3,981.36 plus $5.28) to the New Hampshire AFL-CIO for the use of telephones.

2/ The "Agreement for the Use of Labor Organization Facilities and Equipment" submitted by the Iowa State Education Association states the date of usage as from January 11, 1984, to February 21, 1984, at facilities located in Des Moines, Red Oak, and Algona, Iowa.

installation or deposits costs associated with the union telephones it utilized. 3/ In view of the foregoing, it is the recommendation of the Office of the General Counsel that the Commission find reason to believe the New Hampshire AFL-CIO 4/, the Iowa State Education Association, and the New Hampshire NEA violated 2 U.S.C. § 441b(a). We propose to send interrogatories to each of these unions.

As to the remaining five respondents in this matter, NEA, Alabama Education Association, AFL-CIO, Iowa AFL-CIO, and Alabama AFL-CIO, the General Counsel's Report dated June 1, 1984, in this matter discussed the fact that all of the above five unions have asserted that they did not permit their facilities or equipment to be utilized or rented by MPC. The claim of the AFL-CIO and NEA is supported by MPC's response to the complaint wherein it is stated that "[w]hile no use Agreements were entered into with the AFL-CIO or NEA at the national level, a few of the Agreements were entered into with the AFL-CIO state federations or with the NEA state affiliates." In consideration of the foregoing, it is the recommendation of this office that the Commission find no

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3/ It is the position of MPC that "there is no evidence that the labor organization paid deposit costs for their telephones since it is common for volume users to have agreements with the telephone companies such as MPC's National Payment agreement."

4/ This office notes that although MPC has paid a portion of the installation costs in Dover, New Hampshire, it did not pay any part of the deposit costs, if any. Moreover, MPC paid neither deposit nor installation costs in connection with the telephone it utilized in Laconia, New Hampshire.

reason to believe the NEA, the AFL-CIO, the Iowa AFL-CIO, and the Alabama AFL-CIO violated 2 U.S.C. § 441b(a). As to the Alabama Education Association, a complaint was filed on September 6, 1984, by the same complainant as in the instant matter which alleges that the Alabama NEA's facilities were utilized by MPC from March 4, 1984, through March 12, 1984. See the complaint in MUR 1776. The complainant's allegation, which contradicts the information contained in the Alabama NEA's April 13, 1984, response, is supported by the affidavit of a private investigator. The affidavit reflects that the Alabama NEA "permitted the Mondale campaign to use its offices and telephone bank to conduct a partisan get-out-the-vote campaign on Walter Mondale's behalf directed at members of the general public." In consideration of this circumstance, it is the recommendation of this office that the Commission find reason to believe the Alabama NEA violated 2 U.S.C. § 441b(a).

(b) Additional unions identified by MPC in response to "RTB"

As discussed in Interim Investigative Report #1 in this matter, MPC has identified 75 individuals with whom it entered into lease agreements on behalf of labor organizations for the use of the labor organizations' facilities. 5/ In providing this information, MPC notes that "in some instances Use Agreements

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5/ This office notes that in three instances MPC has identified two individuals who negotiated lease agreements on behalf of the same union. The 75 individuals identified by MPC include representatives of: New Hampshire NEA (Marilyn Monahan, President); IBEW Local 490, Dover, New Hampshire (James D. Casey, Business Manager); and, Iowa State Education Association (Fred Comer, Executive Director). See discussion supra re: respondents named in the complaint.

were signed, but the phones were not needed." MPC explains that "[t]here also may be instances in which agreements were signed, phones were used and the Use Agreement is in the possession of the labor organization and not MPC," thereby suggesting that its list of 75 individuals may be incomplete. 6/ In addition to the unions represented by the above 75 individuals, MPC has also acknowledged entering into lease agreements with the Brevard County Central Labor Council, the Hillsborough County Central Labor Council, the Laborers' International Union of North American and/or its local bodies, and the Wisconsin State AFL-CIO.

The information provided by MPC demonstrates that its use of labor organization telephones extended beyond the unions named in the complaint. In numerous instances, however, MPC did not identify in specific detail the name of the union represented by the individual with whom MPC negotiated the lease agreements. 7/ Hence, in consideration of this circumstance this office recommends that with respect to the unions which were specifically identified by MPC in its August 20, 1984, submission, the Commission find that there is reason to believe they violated 2 U.S.C. § 441b(a) by incurring the installation and deposit costs of telephones utilized by MPC. It is also

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6/ A review of the debts reported by MPC on Schedule C-P of FEC Form 3P for May, June, and July of 1984 indicates that MPC utilized the telephones of additional labor organizations.

7/ MPC's response states that it is "providing the Commission with the names of the national labor organizations; however, in most instances the use agreements were entered into with representatives of local bodies," and, that "the Use Agreement did not call for the address of the labor organization representative."

recommended that the Commission find reason to believe MPC violated 2 U.S.C. § 441b(a) by accepting the payment of the telephone installation and deposit costs from the above unions whose facilities it utilized. As to the unions for which we do not have sufficient identifying information at this time, we propose to defer any recommendation until after receipt of MPC's answers to the attached order which requires MPC to identify, in complete detail, all unions whose facilities it utilized. Furthermore, we are also recommending at this time that the Commission approve the issuance of the attached sample letter, order, and interrogatories to the unions for which we are recommending a finding of reason to believe in order to determine the extent of, and circumstances surrounding, MPC's usage of those labor organization telephones.

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RECOMMENDATIONS

1. Find reason to believe the New Hampshire State Labor Council violated 2 U.S.C. § 441b(a).

2. Find reason to believe the National Education Association of New Hampshire violated 2 U.S.C. § 441b(a).

3. Find reason to believe the Iowa State Education Association violated 2 U.S.C. § 441b(a).

4. Find reason to believe the Alabama Education Association violated 2 U.S.C. § 441b(a).

5. Find no reason to believe the National Education Association violated 2 U.S.C. § 441b(a).

6. Find no reason to believe the American Federation of Labor and Congress of Industrial Organizations violated 2 U.S.C. § 441b(a).

7. Find no reason to believe the Iowa Federation of Labor violated 2 U.S.C. § 441b(a).

8. Find no reason to believe the Alabama Labor Council violated 2 U.S.C. § 441b(a).

9. Close the file as it pertains to the National Education Association, the American Federation of Labor and Congress of Industrial Organizations, the Iowa Federation of Labor, and the Alabama Labor Council.

10. Find reason to believe the following labor organizations violated 2 U.S.C. § 441b(a):

a. American Federation of Teachers
b. American Federation of Teachers, Local 2309 (Oklahoma)
c. Massachusetts Federation of Teachers (AFT)
d. CWA, Local 1365 (New Hampshire)
e. National Education Association; Local 1 (Michigan)
f. CWA, Local 6010 (Oklahoma)
g. Massachusetts Teachers Association
h. Bakery, Confectionary and Tobacco Workers Union, Local 275 (Maine)
i. United Union of Roofers, Waterproofers and Allied Workers, Local 70 (Michigan)
j. Quad Cities Federation of Labor
k. International Brotherhood of Electrical Workers, Local 252 (Michigan)
l. Burlington County Education Association
m. International Brotherhood of Electrical Workers, Local 2320 (New Hampshire)
n. United Brotherhood of Carpenters and Joiners of America, Local 678 (Iowa)
o. United Brotherhood of Carpenters and Joiners of America, Local 512 (Michigan)
p. United Brotherhood of Carpenters and Joiners of America, Local 766 (Minnesota)
q. United Brotherhood of Carpenters and Joiners of America, Local 7 (Minnesota)
r. Muskogee and Vicinity Central Labor Council
s. Keokuk Labor Fraternal Council
t. Black Hawk Labor Temple Corp.

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u. United Food and Commercial Workers International Union
v. United Food and Commercial Workers International Union, Local 6 (Minnesota)
w. United Food and Commercial Workers International Union, Local 47-P (Nebraska)
x. United Food and Commercial Workers International Union, Local 1439
y. Clinton Labor Congress (AFL-CIO)
z. International Brotherhood of Electrical Workers, Local 405 (Iowa)
aa. International Brotherhood of Electrical Workers, Local 292 (Minnesota)
bb. Hotel, Hospital, Restaurant, and Tavern Employees Union, Local 21 (Minnesota)
cc. United Steelworkers of America, Local 3539 (Minnesota)
dd. United Paperworkers International Union, Local 75 (New Hampshire)
ee. United Paperworkers International Union, Local 61 (New Hampshire)
ff. Muskingan County UAW, C.A.P. Council
gg. United Auto Workers, Local 442 (Iowa)
hh. Clark County Classroom Teachers Association (Nevada)
ii. United Food and Commercial Workers International Union, Local 71 (Iowa)
jj. United Food and Commercial Workers International Union, Local 1169 (Iowa)
kk. United Food and Commercial Workers International Union, Local 31 (Iowa)
ll. Greater Flint AFL-CIO Council
mm. International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers
nn. Maine AFL-CIO
oo. Washington State Labor Council
pp. Ohio AFL-CIO
qq. AFSCME District Council 337, Local 372 (New York)
rr. United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the U.S. and Canada, Local 190 (Michigan)
ss. United Steelworkers of America, Local 2944 (New Hampshire)
tt. Minneapolis Building Trades Council
uu. Trowel Trades, Local 14 (Michigan)
vv. United Food and Commercial Workers International Union, Local 1161 (Minnesota)
ww. CWA, Local 4305 (Ohio)
xx. Brevard County Central Labor Council

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yy. Hillsborough County Central Labor Council
zz. Laborers' International Union of North America
aaa. Wisconsin State AFL-CIO

11. Find reason to believe Walter F. Mondale, Mondale for President Committee, and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a) in connection with its acceptance of telephone installation and deposit costs from the unions enumerated in recommendation 10 above.

12. Approve the attached letters, orders, and interrogatories.

13. Approve the attached sample letter, order, and interrogatories to be sent to the unions enumerated in recommendation 10 above.

Charles N. Steele
General Counsel

September 12, 1984
Date

By: [signature]
Kenneth A. Gross
Associate General Counsel

Attachments:
1 - MPC Response
2 - Proposed letters, orders, and interrogatories
3 - Proposed sample letter and interrogatories

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AUG 20 P5:22

RESPONSE OF MONDALE FOR PRESIDENT COMMITTEE, INC.
TO INTERROGATORIES IN MUR 1641

On July 3, 1984, Mondale for President Committee, Inc., ("MPC") received interrogatories from the Commission. On July 9, 1984, MPC filed a request for an extension of time in which to comply. On July 11, 1984 an extension of time until August 20, 1984 was granted.

MPC developed an "Agreement for the Use of Labor Organization Facilities and Equipment" ("Use Agreement"), a sample copy of which is attached to MPC's Response to the Complaint as Exhibit "A." The Use Agreement form was provided to MPC employees in the field who were authorized to make arrangements for the use of labor facilities and equipment. In order to prepare its response, MPC reviewed copies of Use Agreements entered into with labor organizations. To the extent that the information requested by the Commission is contained on the use agreements, MPC has provided it below. However, we are unable to provide some of the information requested in the interrogatories because the information sought is not in the possession of MPC.

In several instances, these interrogatories employ terms the meaning of which MPC is unable to determine. Where appropriate, MPC has supplied a reasonable interpretation in its endeavor to comply with the order.

Although MPC is providing the requested information, we also reiterate and reserve our objections to the Complaint as set

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Attachment 1(1)

forth in our motion for reconsideration of July 31, 1984 and our Response to the Complaint of April 11, 1984.

RESPONSE TO INTERROGATORIES

1. In response to this question MPC is providing the most complete information in its possession. See footnote on page 3. MPC entered into agreements for the use of telephones with the following labor organizations:

*American Federation of Teachers
*American Federation of State and County Municipal Employees
Brevard County Central Labor Council
Hillsborough County Central Labor Council
*United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada
*International Association of Machinists and Aerospace Workers
*Communications Workers of America
New Hampshire Education Association
Massachusetts Teachers Association
Michigan Education Association
*United Auto Workers
Clark County Classroom Teachers Association
*United Food and Commercial Workers
*International Brotherhood of Carpenters and Joiners of America
Muskogee & Vicinity Central Labor Council, AFL-CIO
Iowa State Education Association
*Laborers' International Union of North America
Quad Cities Federation of Labor, AFL-CIO
Trowel Trades, Local 14
*International Ladies Garment Workers Union
Burlington County Education Association
*Hotel, Hospital, Restaurant & Tavern Employees
Minneapolis Building Trades Council
*International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers
*United Paperworkers International Union
*United Steelworkers of America
*Amalgamated Clothing & Textile Workers Union

*/ MPC is providing the Commission with the names of the national labor organizations; however, in most instances the Use Agreements were entered into with representatives of local bodies. See answer to #2 for additional information.

1(a)

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*Bakery, Confectionary and Tobacco Workers International Union
*United Union of Roofers, Waterproofers and Allied Workers
*Service Employees International Union
Flint AFL-CIO Council (Greater)
Maine AFL-CIO
Washington State Labor Council (AFL-CIO)
Ohio AFL-CIO
Wisconsin State AFL-CIO
Clinton Labor Congress, AFL-CIO (Iowa)
New Hampshire AFL-CIO

2. This question, which seeks the identification of individuals with whom MPC "dealt" concerning use of union phones, is vague. Granting this phrase a reasonable interpretation, MPC is providing the names of the persons who signed the Use Agreement forms on behalf of labor organizations:**/

Rachelle Horowitz
Director of Committee on Political Education
American Federation of Teachers

David Renfro
President
American Federation of Teachers, Local 2309 (Oklahoma)

Joan A. Buckley
Director of Organization
Massachusetts Federation of Teachers (AFT)

Ronald A. Domini
Wisconsin People Director
AFSCME

Roger Frazier
Area Director (Iowa)
AFSCME

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*/ See Footnote on p. 2.

**/ In response to this question, MPC is providing the most complete information in its possession. However, in some instances Use Agreements were signed, but the phones were not needed. There may also be instances in which agreements were signed, phones were used and the Use Agreement is in the possession of the labor organization and not MPC. Finally, the Use Agreement did not call for the address of the labor organization representative. MPC is providing the most complete identification of the individuals which is in its possession.

1(3)

Tom White
Assistant to President
AFSCME Council #325 (Michigan)

Andrea L. Strader
Political Representative
AFSCME (Maine)

Frank P. Clark
AFSCME (Massachusetts)

Rick Scott
Political Action Director
AFSCME (Minnesota)

Christopher Dugovitch
Staff Representative
Washington State Council of County & City Employees (AFSCME)

Girard P. Clark
Director of Political Action
AFSCME (New Hampshire)

Robert M. Clark
AFSCME (New Hampshire)

Marian A. Moffitt
Representative
CWA (Iowa)

Dan A. Beauregard
President
CWA, Local 1365 (New Hampshire)

Randy L. Sanders
President
CWA, Local 6010 (Oklahoma)

Rick Flynn
President
National Education Association; Local 1
(Michigan)

Marilyn Monahan
President
NEA - New Hampshire

Edward P. Sullivan
Executive Director/Treasurer
Massachusetts Teachers Association

Michael J. Cavanaugh
Business Agent
Amalgamated Clothing and Textile Workers Union (Maine)

1(4)

Carroll P. St. Peter
President
Bakery, Confectionary & Tobacco Workers Union, Local 275 (Maine)

William Darryl Barber
Business Position
United Union of Roofers, Waterproofers and Allied Workers,
Local 70 (Michigan)

James L. Hoovens
Financial Secretary
Service Employees International Union
(Missouri)

Leonard L. Davis
President
Quad Cities Federation of Labor
(Iowa)

Frank Michelfelder
Business Manager
International Brotherhood of Electrical Workers, Local 252
(Michigan)

Martin Bader
Comptroller
International Ladies Garment Workers Union
(New Jersey)

Angela M. Bertolino
President
Burlington County Education Association
(New Jersey)

Martin J. Fitzpatrick
Business Manager
International Brotherhood of Electrical Workers, Local 2320
(New Hampshire)

James D. Casey
Business Manager
IBEW, Local 490
(New Hampshire)

James L. Floyd
Business Representative
United Brotherhood of Carpenters and Joiners of America, Local
678 (Iowa)

John Martin
Financial Secretary/Business Manager
United Brotherhood of Carpenters and Joiners of America
Local 512 (Michigan)

1(5)

Michael Hoiseth
Business Representative
Carpenters, Local 766 (Minnesota)

George R. Zastrow
President
Carpenters, Local 7 (Minnesota)

Roy L. Hawkins
President
Muskogee & Vicinity Central Labor Council
(Oklahoma)

Jerry A. Kearns
President
Keokuk Labor Fraternal Coucnil (Iowa)

Fred R. Comer
Executive Director
Iowa State Education Association

Donald J. Frost
President
Black Hawk Labor Temple Corp. (Iowa)

Marvin R. Hrubes
Executive Assistant
United Food and Commercial Workers

Derby Olsen
President
United Food and Commercial Workers, Local 6
(Minnesota)

Max V. Graham
President
UFCW, Local 47-P (Nebraska)

Donald Hoffer
Vice President
UFCW (Washington)

Sean Harrigan
President
UFCW, Local 1439

Steve Schwarz
County Coordinator
Clinton Labor Congress, AFL-CIO (Iowa)

James W. Vick
IBEW, Local 405 (Iowa)

1(6)

Owen Schleisman
Business Manager
IBEW, Local 292 (Minnesota)

Buck Jackson
Business Manager
Hotel, Hospital, Restaurant & Tavern Employees, Local 21
(Minnesota)

Richard D. Hagen
President
United Steelworkers of America, Local 3539 (Minnesota)

Andy Meyers
Regional Coordinator
United Paperworkers International Union, Local 75 (New Hampshire)

Wilbur V. Barnett
President
UPIU, Local 61 (New Hampshire)

Douglas D. Smith
Chairman
Muskegan County UAW, C.A.P. Council

Charles Chandler
President
United Auto Workers, Local 442 (Iowa)

Lorenzo Oakley
New Jersey CAP Director
United Auto Workers, Region 9

Chris Giunchigliani
President
Clark County Classroom Teachers Association (Nevada)

Wayne Huntsman
President
UFCW, Local 71 (Iowa)

Ken Abbas
Assistant Financial Secretary/Legislative &
Political Representative
UFCW, Local 1169 (Iowa)

Jack Dorman
President
UFCW, Local 31 (Iowa)

Don E. Yocom
Secretary/Treasurer
UFCW/Trades (Iowa)

1(7)

Chaplin Cook
Secretary/Treasurer
Greater Flint AFL-CIO Council

Charles W. Jones
International President
International Brotherhood of Boilermakers,
Iron Ship Builders, Blacksmiths, Forgers
and Helpers. (Kansas)

Charles O'Leary
President
Maine AFL-CIO

Lawrence Kenney
Secretary/Treasurer
Washington State Labor Council (AFL-CIO)

Milan Marsh
President
Ohio AFL-CIO

Jack B. Reihl
Secretary/Treasurer
Ohio AFL-CIO

Robert C. Merle
International Representative, CAP coordinator
UAW, Region 1 (Michigan)

Frank Runnels
Director
UAW, Region 1-E (Michigan)

Arthur Tibaldi
Treasurer
AFSCME District Council 37 (New York)

Charles Hughes
President
AFSCME District Council 337, Local 372 (New York)

Kathy Horwath
International Union Area Director (Ohio)
AFSCME

Bruce Towler
Business Manager
United Association of Journeymen and Apprentices of the Plumbing
and Pipe Fitting Industry of the United States and Canada
Local 190 (Michigan)

Alden G. Boardman
President
United Steelworkers of America, Local 2944 (New Hampshire)

Roger C. Hare
Grand Lodge Representative
International Association of Machinists and Aerospace Workers
(Maine)

Donald Early
Business Manager
Minneapolis Building Trades Council

Rick Flynn
President MEA-NEA, Local 1 (Michigan)

Sam Palazzolo
Business Manager
Trowel Trades, Local 14 (Michigan)

Henry Martin
Chief Steward
UFCW, Local 1161

Theresa McMahon
Secretary
AFT-Nashua (New Hampshire)

Keith Estes
Vice President
Communications Workers of America, Local 4305 (Ohio)

3. a) The Commission has not provided a workable distinction between the meaning of the terms "phonebank" and "individual phones." In any event, the Use Agreements from which MPC must provide this information do not describe the arrangement or location of the telephones. Therefore, MPC is unable to answer this interrogatory.

b) As stated in our response dated April 11, 1984, MPC did not pay installation costs for the telephones; therefore, the costs were not apportioned between MPC and the labor organizations. For a description of the single exception, see the answer to #4.

1(9)

c) As stated in our response dated April 11, 1984, MPC did not pay deposit costs for the phones; therefore, the costs were not apportioned between MPC and the labor organizations. Furthermore, there is no evidence that the labor organizations paid deposit costs for their telephones since it is common for volume users to have agreements with the telephone companies such as MPC's National Payment agreement.

4. a) Yes. The Commission has been provided with a copy of the bill submitted to MPC by the labor organization.

b) No. The Commission has been provided with a copy of the bill submitted to MPC by the labor organization.

5. MPC has no knowledge of the requested information.

6. As we stated on page 3 of our April 11, 1984 response to the complaint, the per diem charges included the use of space in which the telephones were located, utilities, and equipment incidental to the use of the telephones for the periods of time during which MPC was using the telephones.

Respectfully submitted,

David M. Ifshin
General Counsel

Carolyn U. Oliphant
Deputy General Counsel

1(10)

8504054235

I am treasurer for Mondale for President Committee, Inc. The foregoing answers to interrogatories were prepared with the assistance and advice of counsel for the corporation, upon whom both the corporation and I rely. Although said answers have been made upon information believed to be accurate, the interrogatories request information in forms not regularly maintained by Mondale for President Committee, Inc. Subject to the statements hereinabove set forth:

I declare under penalty of perjury that: I am authorized to sign these responses on behalf of Mondale for President Committee, Inc.; as to the foregoing responses based on information and belief, I believe them to be true and correct; and, as to the foregoing responses based on my personal knowledge, they are true and correct.

8504054235 9

Michael S. Berman

Michael S. Berman
Treasurer
Mondale for President Committee, Inc.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Margaret E. McCormick, Esquire
AFL-CIO
815 Sixteenth Street
Washington, D.C. 20006

Re: MUR 1641

Dear Ms. McCormick:

The Federal Election Commission notified your clients, the American Federation of Labor and Congress of Industrial Organizations ("AFL-CIO"), the New Hampshire State Labor Council ("New Hampshire AFL-CIO"), the Iowa Federation of Labor ("Iowa AFL-CIO"), and the Alabama Labor Council ("Alabama AFL-CIO"), on March 9, 1984, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to each of your clients at that time. We acknowledge receipt on April 11, 1984, of your clients' explanations of this matter.

Upon further review of the allegations contained in the complaint and information supplied by your clients, the Commission, on , 1984, determined that there is reason to believe the New Hampshire AFL-CIO violated 2 U.S.C. § 441b(a). Specifically, it appears that the New Hampshire AFL-CIO incurred the total cost of the installation of telephones, including deposits, utilized by agents of the Mondale for President Committee, Inc. at Local 5173 of the United Steelworkers of America (Laconia, N.H.), and the deposit costs of a telephone utilized by agents of the Mondale for President Committee at Local 490 of the I.B.E.W. (Dover, N.H.).

In addition, this is to inform you that the Commission also determined on , 1984, that there is no reason to believe a violation of any statute within its jurisdiction was committed by the AFL-CIO, the Iowa AFL-CIO, and the Alabama AFL-CIO. Accordingly, the Commission has closed its file as it pertains to the AFL-CIO, Iowa AFL-CIO, and the Alabama AFL-CIO. This matter will become a part of the public record within 30 days after the file has been closed with respect to all respondents. The Commission reminds you that the confidentiality

Attachment 2(1)

8504054236 0

provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed.

With respect to the New Hampshire AFL-CIO please submit answers to the enclosed order to answer written questions within ten days of your receipt of this letter. You may also submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter.

The Office of General Counsel would like to settle this matter through conciliation prior to a finding of probable cause; however, in the absence of any information which demonstrates that no further action should be taken against your client, the Office of General Counsel must proceed to the next compliance stage.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that your client wishes the matter to be made public. If you have any questions, please contact Maura White, the staff member assigned to this matter, at 523-4143.

Sincerely,

Enclosure
Order with questions

8504054236 1

2(2)

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: New Hampshire State Labor Council ("New Hampshire AFL-CIO")

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this day of , 1984.

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

2(3)

8504054236 2

INTERROGATORIES TO: New Hampshire AFL-CIO

1. With respect to telephones installed by the New Hampshire AFL-CIO at the offices of Local 490 of the International Brotherhood of Electrical Workers, 16 Pierce Street, Dover, New Hampshire, and utilized by agents of the Mondale for President Committee, Inc. (hereinafter "MPC"), please state:

(a) the amount of deposits paid by the New Hampshire AFL-CIO in connection with the installation of the telephones; and,

(b) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the New Hampshire AFL-CIO prior to the installation of the telephones utilized by MPC, including the substance of each such conversation.

2. With respect to the telephone(s) installed by the New Hampshire AFL-CIO at the offices of Local 5173 of the United Steelworkers of America, 358 South Main Street, Laconia, New Hampshire, and utilized by agents of MPC, please state:

(a) the date that the telephone(s) used by MPC was installed;
(b) the cost of the installation;
(c) the amount of deposits paid by the New Hampshire AFL-CIO in connection with the telephone(s) utilized by MPC; and,
(d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the New Hampshire AFL-CIO prior to the installation of the telephone(s) utilized by MPC, including the substance of each such conversation; and
(e) the amount for which the New Hampshire AFL-CIO billed MPC for telephone installation and/or deposit costs.

8504054236 3

Attachment 2(4)

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert H. Chanin, General Counsel
National Education Association
1201 - 16th Street, N.W.
Washington, D.C. 20036

Re: MUR 1641

8504054236 4

Dear Mr. Chanin:

The Federal Election Commission notified your clients, the National Education Association ("NEA"), the Iowa State Education Association ("Iowa NEA"), the Alabama Education Association ("Alabama NEA") and, the National Education Association of New Hampshire ("New Hampshire NEA"), on March 9, 1984, of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to each of your clients at that time. We acknowledge receipt on April 13, 1984, of your clients' explanations of this matter.

Upon further review of the allegations contained in the complaint and information supplied by your clients, the Commission, on , 1984, determined that there is reason to believe the New Hampshire NEA, the Iowa NEA, and the Alabama NEA violated 2 U.S.C. § 441b(a). Specifically, it appears that the New Hampshire NEA, the Iowa NEA, and the Alabama NEA incurred the total cost of the installation of telephones, including deposits, utilized by agents of the Mondale for President Committee at the unions' respective facilities.

In addition, this is to inform you that the Commission also determined on , 1984, that there is no reason to believe a violation of any statute within its jurisdiction was committed by the NEA. Accordingly, the Commission has closed its file as it pertains to the NEA. This matter will become a part of the public record within 30 days after the file has been closed with respect to all respondents. The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed.

Attachment 2(5)

With respect to the New Hampshire NEA, the Iowa NEA, and the Alabama NEA please submit answers to the enclosed order to answer questions within ten days of your receipt of this letter. You may also submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter.

The Office of General Counsel would like to settle this matter through conciliation prior to a finding of probable cause; however, in the absence of any information which demonstrates that no further action should be taken against your clients, the Office of General Counsel must proceed to the next compliance stage.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that your clients wish the matter to be made public. If you have any questions, please contact Maura White, the staff member assigned to this matter, at 523-4143.

Sincerely,

Enclosure
Orders with questions (3)

8504054236 5

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: National Education Association of New Hampshire ("New Hampshire NEA")

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this day of , 1984.

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

2(7)

8504054236 6

INTERROGATORIES TO: New Hampshire NEA

1. State whether the New Hampshire NEA or any of its agents permitted the telephones of the labor organization to be used by agents of the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

   a) the dates of such use by MPC;
   b) the location of the telephones used;
   c) the total amount of time the telephones were used by MPC; and,
   d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

   a) the date that each of the telephones used by MPC were installed;
   b) the cost of the installations;
   c) the purpose of the installations;
   d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation; and,
   e) the amount of any deposits paid by the New Hampshire NEA in connection with the telephones utilized by MPC.

4. If the answer to question 1 is yes, state the amount for which the New Hampshire NEA billed MPC for any portion of the telephone installation and/or deposit costs incurred.

8504054236 7

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: Iowa State Education Association ("Iowa NEA")

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this day of , 1984.

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

2(9)

8504054236 8

INTERROGATORIES TO: Iowa NEA

1. State whether the Iowa NEA or any of its agents permitted the telephones of the labor organization to be used by agents of the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

   a) the dates of such use by MPC;
   b) the location of the telephones used;
   c) the total amount of time the telephones were used by MPC; and,
   d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

   a) the date that each of the telephones used by MPC were installed;
   b) the cost of the installations;
   c) the purpose of the installations; and
   d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation; and,
   e) the amount of any deposits paid by the Iowa NEA in connection with the telephones utilized by MPC.

4. If the answer to question 1 is yes, state the amount for which the Iowa NEA billed MPC for any portion of the telephone installation and/or deposit costs incurred.

8504054236 9

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: Alabama Education Association ("Alabama NEA")

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this day of , 1984.

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

2(10B)

8504054237 0

INTERROGATORIES TO: Alabama NEA

1. State whether the Alabama NEA or any of its agents permitted the telephones of the labor organization to be used by agents of the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

   a) the dates of such use by MPC;
   b) the location of the telephones used;
   c) the total amount of time the telephones were used by MPC; and,
   d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

   a) the date that each of the telephones used by MPC were installed;
   b) the cost of the installations;
   c) the purpose of the installations; and
   d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation; and,
   e) the amount of any deposits paid by the Alabama NEA in connection with the telephones utilized by MPC.

4. If the answer to question 1 is yes, state the amount for which the Alabama NEA billed MPC for the use of the telephones, including any portion of the telephone installation and/or deposit costs incurred.

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2(10c)

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

David M. Ifshin, Esquire
Carolyn U. Oliphant, Esquire
Mondale for President Committee, Inc.
2201 Wisconsin Avenue, N.W.
Suite 100
Washington, D.C. 20007

Re: MUR 1641

Dear Mr. Ifshin and Ms. Oliphant:

By letter dated July 3, 1984, you were informed that the Commission determined on June 12, 1984, that your clients, Walter F. Mondale, the Mondale for President Committee, Inc., and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a). The response of your clients to the interrogatories issued by the Commission was submitted on August 20, 1984. This is to inform you that on , 1984, the Commission determined that your clients further violated 2 U.S.C. § 441b(a) by accepting the payment of telephone installation and deposit costs from the following labor organizations whose facilities it utilized:

a. American Federation of Teachers
b. American Federation of Teachers, Local 2309 (Oklahoma)
c. Massachusetts Federation of Teachers (AFT)
d. CWA, Local 1365 (New Hampshire)
e. National Education Association; Local 1 (Michigan)
f. CWA, Local 6010 (Oklahoma)
g. Massachusetts Teachers Association
h. Bakery, Confectionary and Tobacco Workers Union, Local 275 (Maine)
i. United Union of Roofers, Waterproofers and Allied Workers, Local 70 (Michigan)
j. Quad Cities Federation of Labor
k. International Brotherhood of Electrical Workers, Local 252 (Michigan)
l. Burlington County Education Association
m. International Brotherhood of Electrical Workers, Local 2320 (New Hampshire)
n. United Brotherhood of Carpenters and Joiners of America, Local 678 (Iowa)

2(11)

8504237 2

o. United Brotherhood of Carpenters and Joiners of America, Local 512 (Michigan)
p. United Brotherhood of Carpenters and Joiners of America, Local 766 (Minnesota)
q. United Brotherhood of Carpenters and Joiners of America, Local 7 (Minnesota)
r. Muskogee and Vicinity Central Labor Council
s. Keokuk Labor Fraternal Council
t. Black Hawk Labor Temple Corp.
u. United Food and Commercial Workers International Union
v. United Food and Commercial Workers International Union, Local 6 (Minnesota)
w. United Food and Commercial Workers International Union, Local 47-P (Nebraska)
x. United Food and Commercial Workers International Union, Local 1439
y. Clinton Labor Congress (AFL-CIO)
z. International Brotherhood of Electrical Workers, Local 405 (Iowa)
aa. International Brotherhood of Electrical Workers, Local 292 (Minnesota)
bb. Hotel, Hospital, Restaurant, and Tavern Employees Union, Local 21 (Minnesota)
cc. United Steelworkers of America, Local 3539 (Minnesota)
dd. United Paperworkers International Union, Local 75 (New Hampshire)
ee. United Paperworkers International Union, Local 61 (New Hampshire)
ff. Muskingan County UAW, C.A.P. Council
gg. United Auto Workers, Local 442 (Iowa)
hh. Clark County Classroom Teachers Association (Nevada)
ii. United Food and Commercial Workers International Union, Local 71 (Iowa)
jj. United Food and Commercial Workers International Union, Local 1169 (Iowa)
kk. United Food and Commercial Workers International Union, Local 31 (Iowa)
ll. Greater Flint AFL-CIO Council
mm. International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers
nn. Maine AFL-CIO
oo. Washington State Labor Council
pp. Ohio AFL-CIO
qq. AFSCME District Council 337, Local 372 (New York)
rr. United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the U.S. and Canada, Local 190 (Michigan)
ss. United Steelworkers of America, Local 2944 (New Hampshire)

8504054237 3

tt. Minneapolis Building Trades Council
uu. Trowel Trades, Local 14 (Michigan)
vv. United Food and Commercial Workers International Union, Local 1161 (Minnesota)
ww. CWA, Local 4305 (Ohio)
xx. Brevard County Central Labor Council
yy. Hillsborough County Central Labor Council
zz. Laborers' International Union of North America
aaa. Wisconsin State AFL-CIO

Under the Act, you have an opportunity to demonstrate that no action should be taken against your clients. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with your response to the enclosed Order to Answer Questions, must be submitted under oath within ten days of your receipt of this notification. An extension of time in which to respond to the enclosed questions will not be granted in this matter.

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

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

If you have any questions, please contact Maura White, the staff member assigned to this matter, at 523-4143.

Sincerely,

Enclosures
Order

2(13)

8504054237 4

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Walter F. Mondale	)	
Mondale for President Committee, Inc.	)	MUR 1641
Michael S. Berman, as treasurer	)	

ORDER TO SUBMIT WRITTEN ANSWERS

TO: Michael S. Berman, Treasurer
Mondale for President Committee, Inc.
Suite 100
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to answer the following questions:

1. Identify all labor organizations, including national unions, international unions, local unions, state central bodies, local central bodies, departments, and any and all units whatsoever, whose telephones were utilized by, or leased to, the Mondale for President Committee, Inc.

2. For each labor organization, including national unions, international unions, local unions, state central bodies, local central bodies, departments, and any and all units whatsoever identified in response to question one, state the mailing address of the labor organization, or any other address for the labor organization in the possession of the Mondale for President Committee, Inc. or any of its agents.

8504054237

2(14)

Answers to the above questions are to be compiled from all documents and materials, including invoices, in the possession of the Mondale for President Committee or any of its agents. Such answers are to be submitted under oath and forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this day of 1984.

Lee Ann Elliott
Chairman

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

8504054237 6

2(45)

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SAMPLE

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Rachelle Horowitz
Director of Committee on
Political Education
American Federation of Teachers
555 New Jersey Avenue, N.W.
Washington, D.C. 20001

Re: MUR 1641

Dear Ms. Horowitz:

On , 1984, the Federal Election Commission determined that there is reason to believe the American Federation of Teachers ("labor organization") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act, as amended. The Commission's determination was based upon the General Counsel's analysis that the labor organization incurred the total installation and deposit costs of telephones used by the Mondale for President Committee at the labor organization's facilities.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the labor organization. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Such materials, along with the labor organization's answers to the enclosed order to answer questions, must be submitted within ten days of your receipt of this letter. Statements must be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against the labor organization the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form

Attachment 3(1)

8504023777

stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Maura White, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

Enclosures
Procedures
Order with questions
Designation of counsel form

8504054237 8

3(2)

SAMPLE

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 1641

ORDER TO SUBMIT WRITTEN ANSWERS

To: American Federation of Teachers

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order.

Such answers must be submitted under oath and must be forwarded to the Commission within ten days of your receipt of this Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C. on this day of , 1984.

Lee Ann Elliott

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

Attachment
Questions

3(3)

8504042379

SAMPLE

INTERROGATORIES

1. State whether the labor organization or any of its agents permitted the telephones of the labor organization to be used by the Mondale for President Committee, Inc. (hereinafter "MPC").

2. If the answer to question 1 is yes, state:

a) the dates of such use by MPC;
b) the location of the telephones used;
c) the total amount of time the telephones were used by MPC; and,
d) the number of telephones used by MPC.

3. If the answer to question 1 is yes, state:

a) the date that each of the telephones used by MPC were installed;
b) the cost of the installations;
c) the purpose of the installations;
d) whether MPC or any of its agents discussed the use or installation of telephones with any agent of the labor organization prior to the installation of the telephones utilized by MPC, including the substance of each such conversation;
e) the amount of any deposits paid by the labor organization in connection with the telephones utilized by MPC; and,
f) the amount for which the labor organization billed MPC for any portion of the telephone installation or deposit costs.

8504054238O

3(4)

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C 20463

MEMORANDUM TO: CHARLES N. STEELE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/MWE

DATE: SEPTEMBER 6, 1984

SUBJECT: MUR 1641: COMPREHENSIVE INVESTIGATIVE REPORT #1 signed AUGUST 30, 1984

The above-named document was circulated to the Commission on a 24 hour no-objection basis at 11:00 a.m. on September 4, 1984.

There were no objections to the report.

8504054238 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary

FROM: Office of General Counsel

DATE: August 31, 1984

SUBJECT: MUR 1641 - Comprehensive Investigative Report #1

The attached is submitted as an Agenda document for the Commission Meeting of _____

Open Session _____

Closed Session _____

CIRCULATIONS		DISTRIBUTION	
48 Hour Tally Vote	[ ]	Compliance	[X]
Sensitive	[ ]		
Non-Sensitive	[ ]	Audit Matters	[ ]
24 Hour No Objection	[X]	Litigation	[ ]
Sensitive	[X]		
Non-Sensitive	[ ]	Closed MUR Letters	[ ]
Information	[ ]	Status Sheets	[ ]
Sensitive	[ ]		
Non-Sensitive	[ ]	Advisory Opinions	[ ]
Other	[ ]	Other (see distribution below)	[ ]

_____ _____

_____ _____

_____ _____

_____

8504023822

RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Walter F. Mondale)
Mondale for President Committee)
Michael S. Berman, as treasurer)

84 AUG 31 P 3:59

MUR 1641

SENSITIVE

Interim Investigative Report #1

On March 6, 1984, Ralph Hettinga, Jr., filed a complaint with the Commission alleging that Walter F. Mondale, the Mondale for President Committee, Inc. ("MPC"), and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a) by accepting contributions from labor organizations. The complainant also alleged that the American Federation of Labor and Congress of Industrial Organizations ("AFL-CIO"), the New Hampshire State Labor Council ("New Hampshire AFL-CIO"), the Iowa Federation of Labor ("Iowa AFL-CIO"), the Alabama Labor Council ("Alabama AFL-CIO"), the National Education Association ("NEA"), the National Education Association of New Hampshire ("New Hampshire NEA"), the Iowa State Education Association, and the Alabama Education Association violated 2 U.S.C. § 441b(a) by making contributions to MPC.

On April 11, 1984, and April 13, 1984, MPC submitted its response to the complaint. Also on April 11, 1984, this office received a letter constituting the response of the AFL-CIO, the Iowa AFL-CIO, the New Hampshire AFL-CIO, and the Alabama AFL-CIO. On April 13, 1984, a response was filed on behalf of the NEA, the New Hampshire NEA, the Iowa State Education Association, and the Alabama Education Association, which was supplemented by a response received on April 18, 1984.

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On June 12, 1984, the Commission determined to find reason to believe that Walter F. Mondale, MPC, and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a) by failing to pay a portion of the telephone installation and deposit costs incurred by various labor organizations whose facilities MPC utilized. The Commission also determined to hold in abeyance any action with respect to the eight labor organizations identified in the complaint until answers were received to interrogatories directed at MPC. Notification of the Commission's finding and interrogatories were mailed to counsel for Walter F. Mondale, MPC, and Michael S. Berman on July 3, 1984. On July 9, 1984, counsel for the respondents requested a 30 day extension of time in which to respond to the interrogatories. By letter dated July 11, 1984, counsel for Walter F. Mondale, MPC, and Michael S. Berman was informed that the requested extension had been granted and that the answers to the interrogatories were to be submitted by August 20, 1984. 1/

On July 31, 1984, counsel for Walter F. Mondale, MPC, and Michael S. Berman submitted a Motion to Reconsider the Commission's Finding of Reason to Believe that a violation of the Act has occurred. The Commission determined on August 15, 1984,

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1/ On July 12, 1984, plaintiff filed a complaint with the United States District Court for the District of Columbia pursuant to 2 U.S.C. § 437g(a)(8). On August 27, 1984, the court ordered the Commission to take final action on the MUR no later than the close of business on September 11, 1984. A memo further discussing that litigation was forwarded by this office to the Commission on August 28, 1984.

to deny the respondents' motion and counsel was so advised by letter dated August 16, 1984.

Responses to the Commission's interrogatories were submitted by MPC on August 20, 1984. In a general statement included within its response, MPC stated that an "Agreement for the Use of Labor Organization Facilities and Equipment" was developed by MPC and "provided to MPC employees in the field who were authorized to make arrangements for the use of labor facilities and equipment." The response states that "MPC reviewed copies of Use Agreements entered into with labor organizations" and "[t]o the extent that the information requested by the Commission is contained on the use agreements, MPC has provided it." The response notes that MPC is "unable to provide some of the information requested in the interrogatories because the information sought is not in the possession of MPC."

A review of MPC's response reveals that MPC entered into agreements for the use of telephones with approximately 38 labor organizations, three of whom were identified in the complaint filed in this matter. 2/ In providing the names of the labor organizations, MPC notes that in certain instances it is "providing the Commission with the names of the national labor organizations; however, in most instances the Use Agreements were entered into with representatives of local bodies." MPC then provided the names of 76 individuals with whom MPC entered into

---

2/ These labor organizations are: the New Hampshire NEA; the Iowa State Education Association; and, the New Hampshire AFL-CIO.

8504238

lease agreements for the use of 73 labor organizations' facilities. 3/ According to the response submitted, "in some instances Use Agreements were signed, but the phones were not needed." Moreover, MPC notes that "there may also be instances in which agreements were signed, phones were used and the Use Agreement is in the possession of the labor organization and not MPC." 4/ As to the identification of the individuals within the labor organizations with whom MPC negotiated the use of facilities, the response of MPC asserts that the "Use Agreement did not call for the address of the labor organization representative" and, that "MPC is providing the most complete identification of the individuals which is in its possession." 5/

MPC contends that it is unable to identify the type of labor organization telephones it utilized because the "Commission has not provided a workable distinction between the meaning of the terms 'phonebank' and 'individual phones'." Moreover, MPC contends that "the Use Agreements from which MPC must provide this information do not describe the arrangement or location of the telephones." With respect to the payment of installation and

8504054238 6

3/ The 38 labor organizations listed by MPC mainly represented the national organizations, while the list of 73 labor organizations included many locals of those national organizations.

4/ A review of the debts reported by MPC on Schedule C-P of FEC Form 3P for May, June, and July of 1984 indicates that MPC utilized the facilities of more than 73 labor organizations.

5/ We note that no addresses were provided for any of the 76 individuals identified by MPC.

deposit costs for labor organization telephones, the response of MPC reiterates that it did not pay such costs, or any portion thereof. The single exception noted is MPC's payment of the installation costs of the telephones it leased in Dover, New Hampshire, from the New Hampshire AFL-CIO. It is the position of MPC that "there is no evidence that the labor organizations paid deposit costs for their telephones since it is common for volume users to have agreements with the telephone companies such as MPC's National Payment agreement." In addition, MPC contends that it has "no knowledge" of the identity of the entities which paid the deposit and installation costs at issue herein. Finally, "per diem" costs were defined by MPC as "includ[ing] the use of space in which the telephones were located, utilities, and equipment incidental to the use of the telephones for the periods of time during which MPC was using the telephones."

Based upon the information provided in response to the Commission's interrogatories this office is in the process of preparing a report to the Commission. At this time we anticipate sending questions to the various labor organizations identified by MPC. The proposed inquiries will concern the purpose, dates, and costs of the telephone installations and deposits at issue.

8504542387

Charles N. Steele
General Counsel

August 30, 1984
Date

By: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

8504238

AUG 20 P5:22

RESPONSE OF MONDALE FOR PRESIDENT COMMITTEE, INC. TO INTERROGATORIES IN MUR 1641

On July 3, 1984, Mondale for President Committee, Inc., ("MPC") received interrogatories from the Commission. On July 9, 1984, MPC filed a request for an extension of time in which to comply. On July 11, 1984 an extension of time until August 20, 1984 was granted.

MPC developed an "Agreement for the Use of Labor Organization Facilities and Equipment" ("Use Agreement"), a sample copy of which is attached to MPC's Response to the Complaint as Exhibit "A." The Use Agreement form was provided to MPC employees in the field who were authorized to make arrangements for the use of labor facilities and equipment. In order to prepare its response, MPC reviewed copies of Use Agreements entered into with labor organizations. To the extent that the information requested by the Commission is contained on the use agreements, MPC has provided it below. However, we are unable to provide some of the information requested in the interrogatories because the information sought is not in the possession of MPC.

In several instances, these interrogatories employ terms the meaning of which MPC is unable to determine. Where appropriate, MPC has supplied a reasonable interpretation in its endeavor to comply with the order.

Although MPC is providing the requested information, we also reiterate and reserve our objections to the Complaint as set

forth in our motion for reconsideration of July 31, 1984 and our Response to the Complaint of April 11, 1984.

RESPONSE TO INTERROGATORIES

1. In response to this question MPC is providing the most complete information in its possession. See footnote on page 3. MPC entered into agreements for the use of telephones with the following labor organizations:

*American Federation of Teachers
*American Federation of State and County Municipal Employees
Brevard County Central Labor Council
Hillsborough County Central Labor Council
*United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada
*International Association of Machinists and Aerospace Workers
*Communications Workers of America
New Hampshire Education Association
Massachusetts Teachers Association
Michigan Education Association
*United Auto Workers
Clark County Classroom Teachers Association
*United Food and Commercial Workers
*International Brotherhood of Carpenters and Joiners of America
Muskogee & Vicinity Central Labor Council, AFL-CIO
Iowa State Education Association
*Laborers' International Union of North America
Quad Cities Federation of Labor, AFL-CIO
Trowel Trades, Local 14
*International Ladies Garment Workers Union
Burlington County Education Association
*Hotel, Hospital, Restaurant & Tavern Employees
Minneapolis Building Trades Council
*International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers
*United Paperworkers International Union
*United Steelworkers of America
*Amalgamated Clothing & Textile Workers Union

*/ MPC is providing the Commission with the names of the national labor organizations; however, in most instances the Use Agreements were entered into with representatives of local bodies. See answer to #2 for additional information.

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*Bakery, Confectionary and Tobacco Workers International Union
*United Union of Roofers, Waterproofers and Allied Workers
*Service Employees International Union
Flint AFL-CIO Council (Greater)
Maine AFL-CIO
Washington State Labor Council (AFL-CIO)
Ohio AFL-CIO
Wisconsin State AFL-CIO
Clinton Labor Congress, AFL-CIO (Iowa)
New Hampshire AFL-CIO

2. This question, which seeks the identification of individuals with whom MPC "dealt" concerning use of union phones, is vague. Granting this phrase a reasonable interpretation, MPC is providing the names of the persons who signed the Use Agreement forms on behalf of labor organizations:**/

Rachelle Horowitz
Director of Committee on Political Education
American Federation of Teachers

David Renfro
President
American Federation of Teachers, Local 2309 (Oklahoma)

Joan A. Buckley
Director of Organization
Massachusetts Federation of Teachers (AFT)

Ronald A. Domini
Wisconsin People Director
AFSCME

Roger Frazier
Area Director (Iowa)
AFSCME

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*/ See Footnote on p. 2.
**/ In response to this question, MPC is providing the most complete information in its possession. However, in some instances Use Agreements were signed, but the phones were not needed. There may also be instances in which agreements were signed, phones were used and the Use Agreement is in the possession of the labor organization and not MPC. Finally, the Use Agreement did not call for the address of the labor organization representative. MPC is providing the most complete identification of the individuals which is in its possession.

Tom White
Assistant to President
AFSCME Council #325 (Michigan)

Andrea L. Strader
Political Representative
AFSCME (Maine)

Frank P. Clark
AFSCME (Massachusetts)

Rick Scott
Political Action Director
AFSCME (Minnesota)

Christopher Dugovitch
Staff Representative
Washington State Council of County & City Employees (AFSCME)

Girard P. Clark
Director of Political Action
AFSCME (New Hampshire)

Robert M. Clark
AFSCME (New Hampshire)

Marian A. Moffitt
Representative
CWA (Iowa)

Dan A. Beauregard
President
CWA, Local 1365 (New Hampshire)

Randy L. Sanders
President
CWA, Local 6010 (Oklahoma)

Rick Flynn
President
National Education Association; Local 1
(Michigan)

Marilyn Monahan
President
NEA - New Hampshire

Edward P. Sullivan
Executive Director/Treasurer
Massachusetts Teachers Association

Michael J. Cavanaugh
Business Agent
Amalgamated Clothing and Textile Workers Union (Maine)

Carroll P. St. Peter
President
Bakery, Confectionary & Tobacco Workers Union, Local 275 (Maine)

William Darryl Barber
Business Position
United Union of Roofers, Waterproofers and Allied Workers,
Local 70 (Michigan)

James L. Hoovens
Financial Secretary
Service Employees International Union
(Missouri)

Leonard L. Davis
President
Quad Cities Federation of Labor
(Iowa)

Frank Michelfelder
Business Manager
International Brotherhood of Electrical Workers, Local 252
(Michigan)

Martin Bader
Comptroller
International Ladies Garment Workers Union
(New Jersey)

Angela M. Bertolino
President
Burlington County Education Association
(New Jersey)

Martin J. Fitzpatrick
Business Manager
International Brotherhood of Electrical Workers, Local 2320
(New Hampshire)

James D. Casey
Business Manager
IBEW, Local 490
(New Hampshire)

James L. Floyd
Business Representative
United Brotherhood of Carpenters and Joiners of America, Local
678 (Iowa)

John Martin
Financial Secretary/Business Manager
United Brotherhood of Carpenters and Joiners of America
Local 512 (Michigan)

Michael Hoiseth
Business Representative
Carpenters, Local 766 (Minnesota)

George R. Zastrow
President
Carpenters, Local 7 (Minnesota)

Roy L. Hawkins
President
Muskogee & Vicinity Central Labor Council
(Oklahoma)

Jerry A. Kearns
President
Keokuk Labor Fraternal Coucnil (Iowa)

Fred R. Comer
Executive Director
Iowa State Education Association

Donald J. Frost
President
Black Hawk Labor Temple Corp. (Iowa)

Marvin R. Hrubes
Executive Assistant
United Food and Commercial Workers

Derby Olsen
President
United Food and Commercial Workers, Local 6
(Minnesota)

Max V. Graham
President
UFCW, Local 47-P (Nebraska)

Donald Hoffer
Vice President
UFCW (Washington)

Sean Harrigan
President
UFCW, Local 1439

Steve Schwarz
County Coordinator
Clinton Labor Congress, AFL-CIO (Iowa)

James W. Vick
IBEW, Local 405 (Iowa)

Owen Schleisman
Business Manager
IBEW, Local 292 (Minnesota)

Buck Jackson
Business Manager
Hotel, Hospital, Restaurant & Tavern Employees, Local 21
(Minnesota)

Richard D. Hagen
President
United Steelworkers of America, Local 3539 (Minnesota)

Andy Meyers
Regional Coordinator
United Paperworkers International Union, Local 75 (New Hampshire)

Wilbur V. Barnett
President
UPIU, Local 61 (New Hampshire)

Douglas D. Smith
Chairman
Muskegan County UAW, C.A.P. Council

Charles Chandler
President
United Auto Workers, Local 442 (Iowa)

Lorenzo Oakley
New Jersey CAP Director
United Auto Workers, Region 9

Chris Giunchigliani
President
Clark County Classroom Teachers Association (Nevada)

Wayne Huntsman
President
UFCW, Local 71 (Iowa)

Ken Abbas
Assistant Financial Secretary/Legislative &
Political Representative
UFCW, Local 1169 (Iowa)

Jack Dorman
President
UFCW, Local 31 (Iowa)

Don E. Yocom
Secretary/Treasurer
UFCW/Trades (Iowa)

Chaplin Cook
Secretary/Treasurer
Greater Flint AFL-CIO Council

Charles W. Jones
International President
International Brotherhood of Boilermakers,
Iron Ship Builders, Blacksmiths, Forgers
and Helpers. (Kansas)

Charles O'Leary
President
Maine AFL-CIO

Lawrence Kenney
Secretary/Treasurer
Washington State Labor Council (AFL-CIO)

Milan Marsh
President
Ohio AFL-CIO

Jack B. Reihl
Secretary/Treasurer
Ohio AFL-CIO

Robert C. Merle
International Representative, CAP coordinator
UAW, Region 1 (Michigan)

Frank Runnels
Director
UAW, Region 1-E (Michigan)

Arthur Tibaldi
Treasurer
AFSCME District Council 37 (New York)

Charles Hughes
President
AFSCME District Council 337, Local 372 (New York)

Kathy Horwath
International Union Area Director (Ohio)
AFSCME

Bruce Towler
Business Manager
United Association of Journeymen and Apprentices of the Plumbing
and Pipe Fitting Industry of the United States and Canada
Local 190 (Michigan)

Alden G. Boardman
President
United Steelworkers of America, Local 2944 (New Hampshire)

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Roger C. Hare
Grand Lodge Representative
International Association of Machinists and Aerospace Workers
(Maine)

Donald Early
Business Manager
Minneapolis Building Trades Council

Rick Flynn
President MEA-NEA, Local 1 (Michigan)

Sam Palazzolo
Business Manager
Trowel Trades, Local 14 (Michigan)

Henry Martin
Chief Steward
UFCW, Local 1161

Theresa McMahon
Secretary
AFT-Nashua (New Hampshire)

Keith Estes
Vice President
Communications Workers of America, Local 4305 (Ohio)

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3. a) The Commission has not provided a workable distinction between the meaning of the terms "phonebank" and "individual phones." In any event, the Use Agreements from which MPC must provide this information do not describe the arrangement or location of the telephones. Therefore, MPC is unable to answer this interrogatory.

b) As stated in our response dated April 11, 1984, MPC did not pay installation costs for the telephones; therefore, the costs were not apportioned between MPC and the labor organizations. For a description of the single exception, see the answer to #4.

c) As stated in our response dated April 11, 1984, MPC did not pay deposit costs for the phones; therefore, the costs were not apportioned between MPC and the labor organizations. Furthermore, there is no evidence that the labor organizations paid deposit costs for their telephones since it is common for volume users to have agreements with the telephone companies such as MPC's National Payment agreement.

4. a) Yes. The Commission has been provided with a copy of the bill submitted to MPC by the labor organization.

b) No. The Commission has been provided with a copy of the bill submitted to MPC by the labor organization.

5. MPC has no knowledge of the requested information.

6. As we stated on page 3 of our April 11, 1984 response to the complaint, the per diem charges included the use of space in which the telephones were located, utilities, and equipment incidental to the use of the telephones for the periods of time during which MPC was using the telephones.

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Respectfully submitted,

David M. Ifshin
General Counsel

Carolyn M. Oliphant
Deputy General Counsel

I am treasurer for Mondale for President Committee, Inc. The foregoing answers to interrogatories were prepared with the assistance and advice of counsel for the corporation, upon whom both the corporation and I rely. Although said answers have been made upon information believed to be accurate, the interrogatories request information in forms not regularly maintained by Mondale for President Committee, Inc. Subject to the statements hereinabove set forth:

I declare under penalty of perjury that: I am authorized to sign these responses on behalf of Mondale for President Committee, Inc.; as to the foregoing responses based on information and belief, I believe them to be true and correct; and, as to the foregoing responses based on my personal knowledge, they are true and correct.

8504054239

Michael S. Berman
Treasurer
Mondale for President Committee, Inc.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 16, 1984

David M. Ifshin, Esquire
Carolyn U. Oliphant, Esquire
Mondale for President Committee, Inc.
2201 Wisconsin Avenue, N.W.
Suite 100
Washington, D.C. 20007

Re: MUR 1641

Dear Mr. Ifshin and Ms. Oliphant:

This is to inform you that the Commission has determined to deny the Motion to Reconsider the Finding of Reason to Believe which you filed on July 31, 1984, on behalf of your clients, Walter F. Mondale, the Mondale for President Committee, Inc., and Michael S. Berman, as treasurer. We remind you that your clients' responses to the interrogatories issued by the Commission are to be submitted no later than August 20, 1984.

If you have any questions, please contact Maura White at 523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

8504054239 9

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 1641
Walter F. Mondale	)	
Mondale for President Committee	)	
Michael Berman, Treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on August 15, 1984, the Commission decided by a vote of 6-0 to take the following actions in MUR 1641:

1. Deny the Motion to Reconsider the Finding of Reason to Believe filed on behalf of Walter F. Mondale, Mondale for President Committee, Inc. and Michael S. Berman, as treasurer.

2. Approve the letter attached to the Memorandum to the Commission dated August 10, 1984.

Commissioners Aikens, Elliott, Harris, McDonald, McGarry and Reiche voted affirmatively in this matter.

Attest:

8-15-84
Date

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

Received in Office of Commission Secretary: 8-10-84, 12:01
Circulated on 48 hour tally basis: 8-13-84, 11:00

8504054240 0

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary

FROM: Office of General Counsel

DATE: August 10, 1984

SUBJECT: MUR 1641 - Memorandum to The Commission

The attached is submitted as an Agenda document for the Commission Meeting of _____

Open Session _____

Closed Session _____

CIRCULATIONS		DISTRIBUTION	
48 Hour Tally Vote	[X]	Compliance	[X]
Sensitive	[X]		
Non-Sensitive	[ ]	Audit Matters	[ ]
24 Hour No Objection	[ ]	Litigation	[ ]
Sensitive	[ ]		
Non-Sensitive	[ ]	Closed MUR Letters	[ ]
Information	[ ]	Status Sheets	[ ]
Sensitive	[ ]		
Non-Sensitive	[ ]	Advisory Opinions	[ ]
Other	[ ]	Other (see distribution below)	[ ]

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RECEIVED
OFFICE OF THE SEC.
COMMISSION SECRETARY

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

84 AUG 10 P12:01

August 10, 1984

SENSITIVE

MEMORANDUM TO: The Commission

FROM: Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

SUBJECT: Motion to Reconsider Finding of Reason to Believe in MUR 1641

8504202

I. Background

On March 6, 1984, Ralph Martin (Bud) Hettinga, Jr., filed a complaint with the Commission alleging that Walter F. Mondale, the Mondale for President Committee, Inc. ("MPC"), and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a) by accepting contributions from labor organizations. 1/ The respondents submitted their responses to the allegations contained in the complaint on April 11, 1984, and April 13, 1984. On June 12, 1984, the Commission determined that there is reason to believe Walter F. Mondale, MPC, and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a). 2/ Notification of the Commission's finding and interrogatories were mailed to the respondents' counsel on July 3, 1984. On July 9, 1984, counsel for the respondents requested a 30 day extension of time in which to respond to the Commission's interrogatories. According to counsel, the extension was necessary because: the "entire campaign staff is leaving for the Democratic National Convention this week and most will not be back in Washington until August 1, 1984"; the "current campaign headquarters will undergo complete

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1/ The complaint also alleges that eight labor unions violated 2 U.S.C. § 441b(a) by making the above contributions to MPC.

2/ The Commission also determined to hold in abeyance at this time any action with respect to other respondents in this matter. See footnote 1 supra.

reconstruction and all campaign offices will be affected"; and, "[i]t will take some time to reorganize materials and records upon return from San Francisco." By letter dated July 11, 1984, the respondents' counsel was informed that the requested extension had been granted and that the respondents' answers to the Commission's interrogatories are to be submitted by August 20, 1984.

On July 31, 1984, counsel for the respondents submitted a Motion to Reconsider the Commission's Finding of Reason to Believe that a violation of the Act has occurred (Attachment 1). It is the recommendation of this Office that the Commission deny the respondents' motion to reconsider and that the respondents' counsel be so advised through the attached letter.

II. Analysis

Reason to believe is a preliminary threshold for investigation, and that by statute "[b]efore the Commission conducts any vote on [a] complaint, other than a vote to dismiss, any person so notified shall have the opportunity to demonstrate, ... that no action should be taken against such person on the basis of the complaint." 2 U.S.C. § 437g(a)(1). In this matter, the respondents have been afforded and availed themselves of the opportunity to respond to the complaint. Furthermore, the First General Counsel's report put before the Commission, in large part, the same substantive arguments which the respondents are asserting in its Motion to Reconsider. The Commission considered those arguments and rejected them at the reason to believe stage. Thus, there is no reason for the Commission to again consider those arguments in the context now urged by the respondents.

Thus, we recommend that the Commission reject the respondent's request to reconsider the reason to believe finding and proceed with its investigation of this matter.

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RECOMMENDATIONS

1. Deny the Motion to Reconsider the Finding of Reason to Believe filed on behalf of Walter F. Mondale, Mondale for President Committee, Inc., and Michael S. Berman, as treasurer.

2. Approve the attached letter.

Attachments
1 - Motion to Reconsider
2 - Proposed Letter

Mondale for President
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007
Telephone: 202-625-1600

MONDALE

July 31, 1984

Charles N. Steele, Esquire
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

84 JUL 31 P6:02

Re: Motion to Reconsider Finding of RTB in MUR 1641

Dear Mr. Steele,

This letter is submitted by the Mondale for President Committee, Inc. ("MPC") in reference to the complaint filed by Ralph Martin (Bud) Hettinga on March 6, 1984, in MUR 1641. MPC's response to the complaint was filed on April 11, 1984. The Commission, on June 12, 1984, found reason to believe (RTB) that MPC received contributions from labor organizations prohibited by 2 U.S.C. Section 441b. MPC did not receive notice of this finding until July 9, 1984. From the questions appended to the notification letter, it appears that this finding was based on the Commission's conclusion that MPC's reimbursement to labor unions for the use of labor owned phones was less than the "normal and usual rental charge" in those instances where reimbursement did not include deposit and installation fees.

MPC respectfully urges the Commission to reconsider immediately its June 12 RTB decision. There is absolutely no basis, either in the statute or in the Commission's regulations, advisory opinions, or enforcement actions, for requiring deposit or installation fees to be included in reimbursement for the use

Attachment 1 (1)

Paid for by Mondale for President, Inc.

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of telephones owned by a labor organization or corporation. This letter, therefore, constitutes a motion to reconsider the Commission's finding of reason to believe that a violation of the Act has occured.

Background

MPC made painstaking efforts to comply with Commission guidelines on the appropriate reimbursement to unions for the campaign's use of union telephones. These efforts are best understood in the context of labor's early endorsement of Mr. Mondale's candidacy. On October 5, 1983, the AFL/CIO (hereafter referred to as "Labor") formally endorsed Walter Mondale as its candidate for President. It also announced that it would seek actively to mobilize its membership in support of the Mondale candidacy. Both MPC and Labor recognized the importance of adherence to applicable laws and regulations and the avoidance of even the appearance of impropriety in any and all of their relationships. They also recognized that the use of labor phones by MPC might be one such relationship.

Accordingly, in September of 1983, long before any such use of labor phones occurred, the MPC legal staff undertook extensive research on Commission regulations, advisory opinions and enforcement actions involving the standards for reimbursement to unions for the use of facilities and equipment, i.e., for the "normal and usual rental charge." Based on this research, a five-page legal memorandum was prepared for appropriate MPC staff, a copy of which is enclosed as attachment A. This memo-

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randum detailed factors to be used in determining the normal and usual rental charge. The memorandum included a section on telephones which provided that "a proportional amount based on the monthly service charge, plus any additional telephone charges (for example, long distance charges) incurred by campaign workers should constitute sufficient reimbursement. Neither the installment charge nor any deposit need be included." Thereafter a model document was prepared by the MPC legal staff entitled "Use Agreement." This document was designed to be used as the agreement to be entered into between MPC and labor organizations any time it was contemplated that MPC might make use of labor phones. The agreement provided for the labor organization in question to invoice, and for MPC to pay, the normal and usual rental charge for any telephones and incidental facilities and equipment used. A copy is enclosed as attachment B.

In neither the legal memorandum nor the use agreement was it stated that the normal and usual rental charge would have to include an amount that would reflect a deposit or installation costs. As will be discussed further below, nothing in MPC's review of applicable Commission materials indicated or even suggested that this would be required.

In sum, MPC, acting in good faith reliance on existing Commission regulations proceeded on a careful program of properly structuring its relations with Labor on the use of Labor phones. Now, after the fact, it appears that the Commission in effect would change its regulations and apply this change retroactively to MPC. As elaborated below, we believe any such action to be unwarranted and improper.

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The phones used by MPC were installed by labor organizations for their own purposes, including communication with their members.*/ (p. 8) MPC's research into all relevant Commission regulations, advisory opinions, and enforcement proceedings revealed no precedent for requiring reimbursement of the deposit or installation fees for the use of union or corporate telephones.

I. THE COMMISSION'S REGULATIONS DO NOT REQUIRE REIMBURSEMENT FOR INSTALLATION OR DEPOSIT FEES

Section 114.9 of the regulations provides that

> Persons . . . who make any use of corporate or labor organization facilities, such as by using telephones or typewriters or borrowing office furniture for activity in connection with a federal election are required to reimburse the corporation or labor organization within a commercially reasonable time, in the amount of the normal and usual rental charge . . . for the use of the facilities.

11 C.F.R. Section 114.9(d)(1982). As defined in Section 100.7 of the regulations, the normal and usual rental charge is "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution."

Beyond the "market price" definition of the normal and usual charge, the regulations offer no guidance on how to calculate reimbursement. It is, of course, axiomatic that a regulation cannot be construed to mean what an agency may have intended but

*/ MPC understands that many of the phones used were located in union locals' offices. In some instances, additional phones were specially installed after labor's endorsement of Mr. Mondale, in order to mobilize labor members through internal partisan communications.

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did not adequately articulate. Usery v. Kennecott Copper Corp. 577 F.2d 1113 (10th Cir. 1977). Moreover, while a court normally defers to an agency's interpretation of its own regulation, DSCC v. FEC, _____ U.S. ____ ( ); Bowles v. Seminole Rock and Sand, 325 U.S. 410 413-14 (1945), the weight of an administrative interpretation depends, among other things, upon its consistency with earlier and later pronouncements of the agency. Morton v. Ruiz, 415 U.S. 199, 237 (1974). Thus, where an agency has consistently interpreted a regulation in one fashion, an after-the-fact attempt by the agency to alter the meaning of its own regulation cannot be honored. Forbes Health Systems v. Harris, 661 F.2d 282, 286 (3rd Cir. 1981). If a violation of a regulation subjects a private party to civil or criminal sanctions, the regulation cannot be construed to have a meaning which was not adequately articulated. Marshall v. Anaconda Co., 596 F.2d 370, 376 (9th Cir. 1979).

Since the regulations are silent with regard to how market price is to be computed, it is appropriate and necessary to examine other Commission pronouncements which may help clarify the regulations. As will be more fully developed below, examination of the totality of Commission opinions and rulings suggests that in the absence of any specific method required by regulation, the Commission must accept reasonable methods to calculate the normal and usual charge. It is not reasonable to require deposit or installation fees for the use of a telephone that was installed by another entity for its own purposes. This would be akin to paying the costs of moving a copying machine into an office for the use of that copying machine. Such reimbursement

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cannot be construed as a reasonable interpretation of the regulatory requirements.

II. THE COMMISSION'S ADVISORY OPINIONS REVEAL NO INSTANCE WHERE INSTALLATION OR DEPOSIT OR ANY ANALOGOUS FEES WERE REQUIRED

The first advisory opinion to address the issue of reimbursing unions for the use of office facilities and equipment was A.O. 1975-94; reprinted in 1 Fed. Elec. Campaign Fin. Guide (CCH) Paragraph 5186, at 10,130 (1980). In that opinion, the Commission stated that providing equipment such as typewriters and copying machines to a congressional campaign at the union's cost of operation would result in an in-kind contribution. Since such equipment clearly had value to the campaign over and above the operating costs, the difference between the cost of operating and the normal and usual charge for renting the equipment would constitute the amount of the contribution.

In Opinion of Counsel 1976-30, the Commission stated that the normal and usual charge for the use of union telephones also includes charges for the office space, utilities, and furniture used to conduct the telephoning. The opinion expressly stated that "[a]ny method that would reasonably compute the rental value of these items would be acceptable by the Commission." (Emphasis added). Although the Commission gave detailed requirements for incidental charges such as utilities and furniture, there was no mention of deposit or installation fees.

In Advisory Opinion 1978-34, the Commission stated that a congressional campaign could not merely reimburse the corporation for the charge by the telephone company of $.076 per local call

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but must pay "the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities, and furniture to conduct the phoning". A.O. 1978-34 (July 17, 1978), reprinted in 1 Fed. Elec. Campaign Fin. Guide (CCH) Paragraph 5328, at 10,310 (1980). Again, the Commission made no reference to any other charges required for reimbursement. A.O. 1978-34 has been cited as precedent in several of the MURs discussed below.

III. THE COMMISSION IN ITS ENFORCEMENT ACTIONS HAS NEVER REQUIRED DEPOSIT OR INSTALLATION FEES FOR THE USE OF PHONES

Although enforcement actions (MURs) are not to be relied upon as precedent, MPC for the sake of thoroughness, researched all relevant prior enforcement actions in order to ascertain all Commmission guidance on the use of corporate or union equipment.

In MUR 1314(80), the Commission found reason to believe that the Carter-Mondale Presidential Committee ("CMPC") accepted a corporate in-kind contributions in the form of free use of office space, utilities, telephones and a computer. CMPC argued that the use of the corporate facilities was "occasional, isolated, and incidental" and as such, the corporation should have been only reimbursed to the extent that, as a result of campaign use, it incurred expenses above its operating costs. See Respondent's Brief at 9. The General Counsel rejected this view, citing A.O. 1978-34 for the rule that reimbursement should be for the usual and normal rental charge of the facilities, i.e., the cost of renting comparable facilities in the commercial market, rather than the increase in overhead alone. See General Counsel's Brief at 16. A conciliation agreement was entered into whereby CMPC

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agreed to reimburse the corporation in the amount estimated by the corporation as the usual and normal rental charge. There was no indication that any deposit or installation fees were included.

In MUR 1369(81), the Carter-Mondale Presidental Committee was again the subject of a complaint alleging that the Maine Teachers Association ("MTA") provided free office space, telephone use and secretarial support to CMPC personnel. CMPC provided the Commission with documentation that an MTA and a CMPC official in Maine used the rental charge of the permanent MTA headquarters as a basis for determining the usual and normal charge. Based on its "reasonable estimate of the value of a comparable room," CMPC felt that $10 per day would be fair reimbursement for the use of MTA's conference room, telephone and any other incidental or overhead costs, including the minimal services of the MTA receptionist. Again, no deposit or installation fee was included for the usage of the telephone; the Commission nevertheless accepted CMPC's reimbursement. In finding no reason to believe any violation of the Act had occurred, the Commission stated that the amount was based on the facilities' "commercially reasonable" value. See First General Counsel's Report at 3.

The most specific guidance for reimbursement at the normal and usual charge is provided by MUR 1349(81), where the Commission found reason to believe that the Reagan for President Committee ("Reagan Committee") accepted in-kind corporate contributions in the form of telephone banks at the rate of $.35 per telephone per day. Reagan Committee officials were unable to

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provide support as to the basis used to calculate the $.35 daily charge for each telephone. The General Counsel cited A.O. 1978-34 for the rule that an in-kind contribution will be found unless a political committee using business telephones also reimburses the corporation or union for "whatever other costs would be subsumed in the normal and usual charge for the rental value of such phones in the normal market, including the use of office space, utilities and furniture to conduct the phoning." After finding reason to believe, however, the Commission voted, without explanation, to take no further action with respect to the Reagan Committee's use of corporate telephones.

MUR 1349 is nevertheless significant because its record of investigation provides the most specific indication of what factors should be considered in determining satisfactory reimbursement. In an effort to determine the approximate value of renting the facilities used, General Counsel Steele requested documentation to the following:

> a) the monthly rent, if any, paid by the corporation during the time the phones were used;
>
> b) the amount of office space used by the Committee volunteers to conduct telephoning, and the percentage that this space is to the total amount of office space rented or owned by the corporation;
>
> c) whether or not the monthly rent includes the cost of utilities and if not, the fair market value of the utilities used by the volunteers;
>
> d) if the corporation owns its office space rather than rents or leases the space, the fair market value in the commercial market in the particular area of the space for the time the space was used by the volunteers;

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e) the monthly telephone service charge of the corporation, the number of telephones on the corporation's premise and whether there were any additional phones charges to the corporation for the cost of the phone calls made by committee volunteers;

f) a list of all office furniture (e.g., desks, chairs) and machines, if any, used by the volunteers and the fair market value in the particular city of the furniture and machines for the time such furniture and machines were used by the volunteers. (Emphasis added).

Thus, these questions offer specific guidance as to how to calculate the normal and usual rental charge and indicate that the monthly telephone service charge plus any additional charges incurred for the phone calls made by campaign workers -- not the installment charge or amount of deposit -- constitutes the normal and usual charge for use of telephones. This calculation is fair and reasonable, and is consistent with the Commission's regulations, advisory opinions and other enforcement actions.

In sum, MPC properly relied on all possible Commission guidance and should not be penalized by the Commission's reinterpretation of its regulations in a manner that is patently inconsistent with the regulatory language as well as prior Commission rulings.

IV. 2 U.S.C. SECTIONS 437f(b) and (c) PRECLUDE THE COMMISSION FROM TAKING ACTION AGAINST MPC IN THIS MATTER.

2 U.S.C. Section 437f(b) requires that the Commission initially propose a new rule of law only through the provisions of 2 U.S.C. Section 438(d) pertaining to regulations. The Commission's attempt in the context of this MUR to impose additional requirements to those contained in 11 C.F.R. Section

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114.9(d) and 100.7(a)(1)(iii)(B) is directly contrary to this statutory mandate. Section 437f(b) was enacted precisely so that persons and committees such as MPC would have clear prior guidance as to the rules governing their conduct. It applies with equal force to Commission proposals of new rules of law in enforcement actions as well as in advisory opinions. It also prohibits the Commission from proposing a general rule of law in any form other than as a rule or regulation pursuant to the congressional review procedures of the Act.

The legislative history on this matter is clear. It states that "It is the intent of the Committee that advisory opinions and regulations shall be the only means through which the Commission may establish guidelines and procedures for carrying on the Act." H.R. Rep. No. 94-917, 94th Cong. 2d Sess. 3(1976). Yet, in this case the Commission is attempting to interpret, revise, and apply the regulatory definition of normal and usual rental charge in a manner never before proposed in any regulation, advisory opinion or enforcement proceeding.

The Commission's articulation of a new definition of normal and usual charge in this enforcement action is even more egregious given MPC's review and reliance on the specific advisory opinions on this subject. 2 U.S.C. Section 437f(c) provides that any person who relies in good faith on a provision of an advisory opinion in circumstances which are materially indistinguishable shall not be subject to any sanction under the Act. As set forth above, MPC relied on AO 1978-34 and its application in subsequent enforcement actions. Thus, any action by the Commission against MPC is also directly contrary to Section 437f(c).

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Conclusion

For the foregoing reasons, the Commission should immediately rescind its finding of reason to believe that a violation of the Act has occurred, make a finding of no reason to believe and dismiss this complaint.

Respectfully submitted,

David M. Ifshin
General Counsel

Carolyn U. Oliphant /pgf
Carolyn U. Oliphant
Deputy General Counsel

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Mondale for President
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007
Telephone: 202-625-1600

MONDALE

Legal Standards for the Use of Union Facilities, Equipment, and Supplies

A federal campaign accepting assistance from a union in the form of union office facilities, equipment or supplies is required by federal law to reimburse the union at the normal and usual charge for such facilities, equipment and supplies. Thus, before any Mondale campaign personnel use any union facilities, equipment and supplies, a contract should be entered into whereby the union agrees to bill, and the campaign agrees to pay within a commercially reasonable time, an amount equal to the normal and usual charge of the union facilities, equipment and supplies to be used by the Campaign.

A) Normal and Usual Charge for Use of Union Facilities, Equipment and Supplies

The normal and usual charge of union facilities, equipment and supplies is defined as the fair market rental value of the facilities, equipment and supplies in the local commercial market during the particular time the office facilities, equipment and supplies are used.

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In determining the normal and usual charge, the following considerations must be taken into account to assure appropriate reimbursement:

1) Reimbursement for minimal use:

Even if Campaign use of the facilities and equipment is occasional or isolated, reimbursement is required.

2) Estimates are acceptable:

The FEC will allow some flexibility and accept reasonable estimates of the fair market rental value of comparable facilities, equipment and supplies.

3) Retain documentation:

Any documentation used in calculating the amount of reimbursement to support the reasonableness of the Campaign's estimates should be retained and attached to the contract.

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4) Office Space, Facilities and Equipment:

The rental value of the space occupied must be paid for, but only that portion of the office space actually used. Furthermore, the rental value of all facilities and equipment (for example, typewriters and copying machines) used must be paid for including, for example, any furniture used.

5) Other Costs:

A proportional share of other costs associated with the use of office facilities and equipment must be reimbursed, such as utilities, if not already included in the rental rate of the office space.

6) Phones:

For the use of telephones, a proportional amount based on the monthly service charge, plus any additional telephone charges (for example, long distance charges) incurred by campaign workers should constitute sufficient reimbursement. Neither the installment charge nor any deposit need be included.

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7) Prompt Billing and Reimbursement:

Finally, the union must bill the Campaign so that the Campaign is able to reimburse the union within a commercially reasonable time.

B) Normal and Usual Charge for Personal Services of Union Employees

In some circumstances, the Campaign may wish to utilize the services of a union employee in connection with the utilized facilities (e.g., typists, receptionists or messengers). Where the Campaign is utilizing the non-volunteer services of a union employee (i.e., the employee's time paid by the union), the Campaign must reimburse the union for the value of those services. The normal and usual charge for a union employee's services is defined as the hourly or piecework charge for the services at a commercially reasonable rate prevailing at the time the services are rendered. Thus, reimbursement for any personal services of union employees provided for the Mondale Campaign during normal working hours must be included in the contract.

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Reimbursement for such personal services is NOT required if the union employee renders his or her services to the Campaign in the capacity of an unpaid volunteer. Of course, services rendered by employees' after working hours are on a volunteer basis. However, employee services, although rendered during working hours, also are deemed to be voluntary in the following situations:

1) An employee, who is paid on an hourly or salaried basis and who is expected to work a particular number of hours per period, engages in campaign activity during what would otherwise be a regular work period, but makes up or completes the required time within a reasonable period.

2) An employee, who is paid on a commission or piece-work basis or is paid for only work actually performed, engages in campaign activity during what would otherwise be normal working hours, but is considered the employee's time to use as he or she sees fit.

3) An employee engages in campaign activity during bona fide, although compensable, vacation time or other earned leave time.

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ATTACHMENT 2

AGREEMENT FOR THE USE OF LABOR ORGANIZATION FACILITIES AND EQUIPMENT

1. The Mondale for President Campaign Committee ("Committee") and _____ ("labor organization") agree this _____ day of _____, 198___ that for the consideration set forth below, the Committee will use the following facilities and equipment of the labor organization on the dates indicated:

2. Dates of use: From _____ to _____

3. Location of facilities to be used: _____

_____

4. Description of facilities and equipment:

_____

_____

5. Other: _____

The labor organization agrees to invoice the Committee for the actual use of the facilities and equipment set forth above in an amount based on the normal and usual rental charge for such facilities and equipment in this community and including any actual telephone charges incurred by the Committee. The invoice will also include billing for the cost of any supplies provided to the Committee. The labor organization will promptly provide its invoice to the Committee, 2201 Wisconsin Avenue, N.W., Washington, D.C. 20007.

The Committee agrees to reimburse the labor organization for use of the labor organization's facilities within a commercially reasonable time.

The undersigned Committee representative is authorized to sign this Agreement on behalf of the Committee.

6. Signed: _____ 10. _____

7. _____ 11. _____
Name Name

8. _____ 12. _____
Position Address

9. _____ Mondale for President
Labor Organization Campaign Committee

13. Dated _____

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INSTRUCTIONS FOR EXECUTING AGREEMENT FOR CAMPAIGN USE OF LABOR ORGANIZATION FACILITIES AND EQUIPMENT

Paragraph 1. Fill in the name of the labor organization and the day, month and year the agreement is entered into.

Line 2. Write in the dates of expected use by the Campaign of the labor organization's facilities and equipment.

Line 3. Provide the address of the labor organization offices to be used or other location of any facilities and equipment to be used.

Line 4. Describe the facilities and equipment expected to be used, (e.g., rooms, phones, typewriters, copying machines and furniture).

Line 5. Describe any other miscellaneous items to be used, e.g., office supplies, automobiles, or personal services provided by labor organization employees as non-volunteers.

Line 6. Signature of labor organization representative.

Line 7. Print name of labor organization representative.

Line 8. Write position of labor organization representative. The individual signing must have authority to enter contracts on behalf of the union, such as an officer.

Line 9. Provide the full name of the labor organization.

Line 10. Signature of Committee representative at Campaign headquarters in Washington, D.C.

Line 11. Print name of Committee representative.

Line 12. Provide address of the Campaign headquarters.

Line 13. Provide date of signing.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

David M. Ifshin, Esquire
Carolyn U. Oliphant, Esquire
Mondale for President Committee, Inc.
2201 Wisconsin Avenue, N.W.
Suite 100
Washington, D.C. 20007

Re: MUR 1641

Dear Mr. Ifshin and Ms. Oliphant:

This is to inform you that the Commission has determined to deny the Motion to Reconsider the Finding of Reason to Believe which you filed on July 31, 1984, on behalf of your clients, Walter F. Mondale, the Mondale for President Committee, Inc., and Michael S. Berman, as treasurer. We remind you that your clients' responses to the interrogatories issued by the Commission are to be submitted no later than August 20, 1984.

If you have any questions, please contact Maura White at 523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Attachment 2

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GCC 4027

Mondale for President
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007
Telephone: 202-625-1600

MONDALE

July 31, 1984

Charles N. Steele, Esquire
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

JUL 31 P 6:02

Re: Motion to Reconsider Finding of RTB in MUR 1641

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Dear Mr. Steele,

This letter is submitted by the Mondale for President Committee, Inc. ("MPC") in reference to the complaint filed by Ralph Martin (Bud) Hettinga on March 6, 1984, in MUR 1641. MPC's response to the complaint was filed on April 11, 1984. The Commission, on June 12, 1984, found reason to believe (RTB) that MPC received contributions from labor organizations prohibited by 2 U.S.C. Section 441b. MPC did not receive notice of this finding until July 9, 1984. From the questions appended to the notification letter, it appears that this finding was based on the Commission's conclusion that MPC's reimbursement to labor unions for the use of labor owned phones was less than the "normal and usual rental charge" in those instances where reimbursement did not include deposit and installation fees.

MPC respectfully urges the Commission to reconsider immediately its June 12 RTB decision. There is absolutely no basis, either in the statute or in the Commission's regulations, advisory opinions, or enforcement actions, for requiring deposit or installation fees to be included in reimbursement for the use

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of telephones owned by a labor organization or corporation. This letter, therefore, constitutes a motion to reconsider the Commission's finding of reason to believe that a violation of the Act has occured.

Background

MPC made painstaking efforts to comply with Commission guidelines on the appropriate reimbursement to unions for the campaign's use of union telephones. These efforts are best understood in the context of labor's early endorsement of Mr. Mondale's candidacy. On October 5, 1983, the AFL/CIO (hereafter referred to as "Labor") formally endorsed Walter Mondale as its candidate for President. It also announced that it would seek actively to mobilize its membership in support of the Mondale candidacy. Both MPC and Labor recognized the importance of adherence to applicable laws and regulations and the avoidance of even the appearance of impropriety in any and all of their relationships. They also recognized that the use of labor phones by MPC might be one such relationship.

Accordingly, in September of 1983, long before any such use of labor phones occurred, the MPC legal staff undertook extensive research on Commission regulations, advisory opinions and enforcement actions involving the standards for reimbursement to unions for the use of facilities and equipment, i.e., for the "normal and usual rental charge." Based on this research, a five-page legal memorandum was prepared for appropriate MPC staff, a copy of which is enclosed as attachment A. This memo-

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agreed to reimburse the corporation in the amount estimated by the corporation as the usual and normal rental charge. There was no indication that any deposit or installation fees were included.

In MUR 1369(81), the Carter-Mondale Presidental Committee was again the subject of a complaint alleging that the Maine Teachers Association ("MTA") provided free office space, telephone use and secretarial support to CMPC personnel. CMPC provided the Commission with documentation that an MTA and a CMPC official in Maine used the rental charge of the permanent MTA headquarters as a basis for determining the usual and normal charge. Based on its "reasonable estimate of the value of a comparable room," CMPC felt that $10 per day would be fair reimbursement for the use of MTA's conference room, telephone and any other incidental or overhead costs, including the minimal services of the MTA receptionist. Again, no deposit or installation fee was included for the usage of the telephone; the Commission nevertheless accepted CMPC's reimbursement. In finding no reason to believe any violation of the Act had occurred, the Commission stated that the amount was based on the facilities' "commercially reasonable" value. See First General Counsel's Report at 3.

The most specific guidance for reimbursement at the normal and usual charge is provided by MUR 1349(81), where the Commission found reason to believe that the Reagan for President Committee ("Reagan Committee") accepted in-kind corporate contributions in the form of telephone banks at the rate of $.35 per telephone per day. Reagan Committee officials were unable to

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provide support as to the basis used to calculate the $.35 daily charge for each telephone. The General Counsel cited A.O. 1978-34 for the rule that an in-kind contribution will be found unless a political committee using business telephones also reimburses the corporation or union for "whatever other costs would be subsumed in the normal and usual charge for the rental value of such phones in the normal market, including the use of office space, utilities and furniture to conduct the phoning." After finding reason to believe, however, the Commission voted, without explanation, to take no further action with respect to the Reagan Committee's use of corporate telephones.

MUR 1349 is nevertheless significant because its record of investigation provides the most specific indication of what factors should be considered in determining satisfactory reimbursement. In an effort to determine the approximate value of renting the facilities used, General Counsel Steele requested documentation to the following:

> a) the monthly rent, if any, paid by the corporation during the time the phones were used;
>
> b) the amount of office space used by the Committee volunteers to conduct telephoning, and the percentage that this space is to the total amount of office space rented or owned by the corporation;
>
> c) whether or not the monthly rent includes the cost of utilities and if not, the fair market value of the utilities used by the volunteers;
>
> d) if the corporation owns its office space rather than rents or leases the space, the fair market value in the commercial market in the particular area of the space for the time the space was used by the volunteers;

8504054243 2

e) the monthly telephone service charge of the corporation, the number of telephones on the corporation's premise and whether there were any additional phones charges to the corporation for the cost of the phone calls made by committee volunteers;

f) a list of all office furniture (e.g., desks, chairs) and machines, if any, used by the volunteers and the fair market value in the particular city of the furniture and machines for the time such furniture and machines were used by the volunteers. (Emphasis added).

Thus, these questions offer specific guidance as to how to calculate the normal and usual rental charge and indicate that the monthly telephone service charge plus any additional charges incurred for the phone calls made by campaign workers -- not the installment charge or amount of deposit -- constitutes the normal and usual charge for use of telephones. This calculation is fair and reasonable, and is consistent with the Commission's regulations, advisory opinions and other enforcement actions.

In sum, MPC properly relied on all possible Commission guidance and should not be penalized by the Commission's reinterpretation of its regulations in a manner that is patently inconsistent with the regulatory language as well as prior Commission rulings.

IV. 2 U.S.C. SECTIONS 437f(b) and (c) PRECLUDE THE COMMISSION FROM TAKING ACTION AGAINST MPC IN THIS MATTER.

2 U.S.C. Section 437f(b) requires that the Commission initially propose a new rule of law only through the provisions of 2 U.S.C. Section 438(d) pertaining to regulations. The Commission's attempt in the context of this MUR to impose additional requirements to those contained in 11 C.F.R. Section

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114.9(d) and 100.7(a)(1)(iii)(B) is directly contrary to this statutory mandate. Section 437f(b) was enacted precisely so that persons and committees such as MPC would have clear prior guidance as to the rules governing their conduct. It applies with equal force to Commission proposals of new rules of law in enforcement actions as well as in advisory opinions. It also prohibits the Commission from proposing a general rule of law in any form other than as a rule or regulation pursuant to the congressional review procedures of the Act.

The legislative history on this matter is clear. It states that "It is the intent of the Committee that advisory opinions and regulations shall be the only means through which the Commission may establish guidelines and procedures for carrying on the Act." H.R. Rep. No. 94-917, 94th Cong. 2d Sess. 3(1976). Yet, in this case the Commission is attempting to interpret, revise, and apply the regulatory definition of normal and usual rental charge in a manner never before proposed in any regulation, advisory opinion or enforcement proceeding.

The Commission's articulation of a new definition of normal and usual charge in this enforcement action is even more egregious given MPC's review and reliance on the specific advisory opinions on this subject. 2 U.S.C. Section 437f(c) provides that any person who relies in good faith on a provision of an advisory opinion in circumstances which are materially indistinguishable shall not be subject to any sanction under the Act. As set forth above, MPC relied on AO 1978-34 and its application in subsequent enforcement actions. Thus, any action by the Commission against MPC is also directly contrary to Section 437f(c).

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Conclusion

For the foregoing reasons, the Commission should immediately rescind its finding of reason to believe that a violation of the Act has occurred, make a finding of no reason to believe and dismiss this complaint.

Respectfully submitted,

David M. Ifshin
General Counsel

Carolyn U. Oliphant /PAT

Carolyn U. Oliphant
Deputy General Counsel

8504054243 5

ATTACHMENT 1

Mondale for President
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007
Telephone: 202-625-1600

MONDALE

Legal Standards for the Use of Union Facilities, Equipment, and Supplies

A federal campaign accepting assistance from a union in the form of union office facilities, equipment or supplies is required by federal law to reimburse the union at the normal and usual charge for such facilities, equipment and supplies. Thus, before any Mondale campaign personnel use any union facilities, equipment and supplies, a contract should be entered into whereby the union agrees to bill, and the campaign agrees to pay within a commercially reasonable time, an amount equal to the normal and usual charge of the union facilities, equipment and supplies to be used by the Campaign.

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A) Normal and Usual Charge for Use of Union Facilities, Equipment and Supplies

The normal and usual charge of union facilities, equipment and supplies is defined as the fair market rental value of the facilities, equipment and supplies in the local commercial market during the particular time the office facilities, equipment and supplies are used.

Paid for by Mondale for President Inc

In determining the normal and usual charge, the following considerations must be taken into account to assure appropriate reimbursement:

1) Reimbursement for minimal use:

Even if Campaign use of the facilities and equipment is occasional or isolated, reimbursement is required.

2) Estimates are acceptable:

The FEC will allow some flexibility and accept reasonable estimates of the fair market rental value of comparable facilities, equipment and supplies.

3) Retain documentation:

Any documentation used in calculating the amount of reimbursement to support the reasonableness of the Campaign's estimates should be retained and attached to the contract.

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4) Office Space, Facilities and Eq ipment:

The rental value of the space occupied must be paid for, but only that portion of the office space actually used. Furthermore, the rental value of all facilities and equipment (for example, typewriters and copying machines) used must be paid for including, for example, any furniture used.

5) Other Costs:

A proportional share of other costs associated with the use of office facilities and equipment must be reimbursed, such as utilities, if not already included in the rental rate of the office space.

6) Phones:

For the use of telephones, a proportional amount based on the monthly service charge, plus any additional telephone charges (for example, long distance charges) incurred by campaign workers should constitute sufficient reimbursement. Neither the installment charge nor any deposit need be included.

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7) Prompt Billing and Reimbursement:

Finally, the union must bill the Campaign so that the Campaign is able to reimburse the union within a commercially reasonable time.

B) Normal and Usual Charge for Personal Services of Union Employees

In some circumstances, the Campaign may wish to utilize the services of a union employee in connection with the utilized facilities (e.g., typists, receptionists or messengers). Where the Campaign is utilizing the non-volunteer services of a union employee (i.e., the employee's time paid by the union), the Campaign must reimburse the union for the value of those services. The normal and usual charge for a union employee's services is defined as the hourly or piecework charge for the services at a commercially reasonable rate prevailing at the time the services are rendered. Thus, reimbursement for any personal services of union employees provided for the Mondale Campaign during normal working hours must be included in the contract.

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Reimbursement for such personal services is NOT required if the union employee renders his or her services to the Campaign in the capacity of an unpaid volunteer. Of course, services rendered by employees' after working hours are on a volunteer basis. However, employee services, although rendered during working hours, also are deemed to be voluntary in the following situations:

1) An employee, who is paid on an hourly or salaried basis and who is expected to work a particular number of hours per period, engages in campaign activity during what would otherwise be a regular work period, but makes up or completes the required time within a reasonable period.

2) An employee, who is paid on a commission or piece-work basis or is paid for only work actually performed, engages in campaign activity during what would otherwise be normal working hours, but is considered the employee's time to use as he or she sees fit.

3) An employee engages in campaign activity during bona fide, although compensable, vacation time or other earned leave time.

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ATTACHMENT 2

AGREEMENT FOR THE USE OF LABOR ORGANIZATION FACILITIES AND EQUIPMENT

1. The Mondale for President Campaign Committee ("Committee") and _____("labor organization") agree this _____ day of _____, 198___ that for the consideration set forth below, the Committee will use the following facilities and equipment of the labor organization on the dates indicated:

2. Dates of use: From_____to_____

3. Location of facilities to be used:_____

_____

4. Description of facilities and equipment:

_____

_____

5. Other: _____

The labor organization agrees to invoice the Committee for the actual use of the facilities and equipment set forth above in an amount based on the normal and usual rental charge for such facilities and equipment in this community and including any actual telephone charges incurred by the Committee. The invoice will also include billing for the cost of any supplies provided to the Committee. The labor organization will promptly provide its invoice to the Committee, 2201 Wisconsin Avenue, N.W., Washington, D.C. 20007.

The Committee agrees to reimburse the labor organization for use of the labor organization's facilities within a commercially reasonable time.

The undersigned Committee representative is authorized to sign this Agreement on behalf of the Committee.

6.Signed:_____ 10. _____

7. _____ 11. _____
Name Name

8. _____ 12. _____
Position Address

9. _____ Mondale for President
Labor Organization Campaign Committee

13. Dated _____

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INSTRUCTIONS FOR EXECUTING AGREEMENT FOR CAMPAIGN USE OF LABOR ORGANIZATION FACILITIES AND EQUIPMENT

Paragraph 1.	Fill in the name of the labor organization and the day, month and year the agreement is entered into.
Line 2.	Write in the dates of expected use by the Campaign of the labor organization's facilities and equipment.
Line 3.	Provide the address of the labor organization offices to be used or other location of any facilities and equipment to be used.
Line 4.	Describe the facilities and equipment expected to be used, (e.g., rooms, phones, typewriters, copying machines and furniture).
Line 5.	Describe any other miscellaneous items to be used, e.g., office supplies, automobiles, or personal services provided by labor organization employees as non-volunteers.
Line 6.	Signature of labor organization representative.
Line 7.	Print name of labor organization representative.
Line 8.	Write position of labor organization representative. The individual signing must have authority to enter contracts on behalf of the union, such as an officer.
Line 9.	Provide the full name of the labor organization.
Line 10.	Signature of Committee representative at Campaign headquarters in Washington, D.C.
Line 11.	Print name of Committee representative.
Line 12.	Provide address of the Campaign headquarters.
Line 13.	Provide date of signing.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 11, 1984

Carolyn U. Oliphant
Deputy General Counsel
Mondale for President
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007

Re: MUR 1641

Dear Ms. Oliphant:

This is in reference to your letter dated July 9, 1984, requesting a 30 day extension of time in which to respond to the the Commission's questions in connection with its investigation in the above-captioned matter.

After considering the circumstances presented in your letter, the Commission has determined to grant your requested extension. Accordingly, your response is due on August 20, 1984.

If you have any questions, please contact Lois Lerner at 523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

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Mondale for President
2001 Wisconsin Avenue, N.W.
Washington, D.C. 20007
Telephone: 202-625-1600

MONDALE

GCC 3978

July 9, 1984

JUL 9 P12:51

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

Re: MUR 1641

Dear Mr. Gross,

This is in reference to your notification letter dated July 3, 1984 concerning the above-referenced matter which was received by Mondale for President on July 9, 1984. This letter requests that answers to attached questions be submitted within 10 days. MPC is unable to respond to these questions by July 19. The entire campaign staff is leaving for the Democratic National Convention this week and most will not be back in Washington until August 1, 1984. In addition, the current campaign headquarters will undergo complete reconstruction and all campaign offices will be affected. It will take some time to reorganize materials and records upon return from San Francisco.

Accordingly, we request an additional 30 days to respond to your questions. Upon grant of this request MPC's response will be due August 20, 1984. Please advise us of the disposition of this request by close of business July 10, 1984, if at all possible.

Sincerely,

Carolyn U. Oliphant

Carolyn U. Oliphant
Deputy General Counsel

CUO/bjp

Paid for by Mondale for President, Inc.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 3, 1984

David M. Ifshin, Esq.
Carolyn U. Oliphant, Esq.
Mondale for President Committee, Inc.
2201 Wisconsin Avenue, N.W.
Suite 100
Washington, D.C. 20007

Re: MUR 1641
Walter F. Mondale
Mondale for President
Committee, Inc.
Michael S. Berman, Treasurer

Dear Mr. Ifshin and Ms. Oliphant:

The Federal Election Commission notified your clients on March 9, 1984, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time. We acknowledge receipt of your explanation of this matter which was dated April 11, 1984. Upon further review of the allegations contained in the complaint and information supplied by you, the Commission, on June 13, 1984, determined that there is reason to believe that Mondale for President Committee, Inc. and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a) a provision of the Act. You may also submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Please submit the answers and any other information within ten days of your receipt of this notification. All statements should be submitted under oath.

The Office of the General Counsel would like to settle this matter through conciliation prior to a finding of probable cause; however, in the absence of any information which demonstrates that no further action should be taken against your clients, the Office of the General Counsel must proceed to the next compliance stage as noted on page 2, paragraph 2 of the enclosed procedures.

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In furtherance of the Commission's investigation in this matter, please submit answers to the enclosed questions.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that your clients wish the matter to be made public. If you have any questions, please contact Lois G. Lerner, the attorney assigned to this matter, at (202)523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures
Questions
Procedures

8504054244 6

INTERROGATORIES

Mondale for President Committee, Inc., Michael S. Berman, as treasurer (MUR 1641)

Please submit your response to the following interrogatories under oath within ten days.

In your response to the complaint in this matter, you stated that the Committee's reimbursement to labor organizations for phone use did not include amounts for deposits or installation charges.

1) List all labor organizations from which the Mondale for President Committee, Inc. leased/rented phonebanks and/or phones.

2) Identify all individuals in the labor organizations with whom Mondale for President Committee, Inc. dealt with regarding phone use, including their names, addresses, organizations and positions within the organization.

3) With regard to each instance where Mondale for President Committee, Inc. leased/rented phones from labor organizations:

   a) State whether phonebanks or individual phones were used.

   b) State whether Mondale for President Committee, Inc. paid installation costs for the phones, and describe how such costs were apportioned between Mondale for President Committee, Inc. and the labor organization.

   c) State whether Mondale for President Committee, Inc. paid deposit costs for the phones, and describe how such costs were apportioned between Mondale for President Committee, Inc. and the labor organization.

4) With regard to telephones rented/leased by Mondale for President Committee, Inc. from the AFL-CIO located in Dover, New Hampshire state whether:

   a) Mondale for President Committee, Inc. paid installation costs.

   b) Mondale for President Committee, Inc. paid deposit costs.

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5) In each instances where Mondale for President Committee, Inc. did not pay installation and/or deposit costs, state who paid such advance costs, including the name and address of the person in charge of paying such costs.

In your response to the complaint, you stated that the Committee's payment to labor organizations for rental charge for space was made on a per diem basis.

6) Describe what costs are associated with a per diem charge for the use of space.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES N. STEELE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/SUSAN M. TEIR SMT

DATE: JUNE 29, 1984

SUBJECT: MUR 1641 - MEMORANDUM TO THE COMMISSION
dated June 28, 1984

The above-named document was circulated to the Commission on a 24 hour no-objection basis at 4:00 on June 28, 1984.

There were no objections to the above-captioned matter at the time of the deadline.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary

FROM: Office of General Counsel

DATE: June 28, 1984

SUBJECT: MUR 1641 - Memorandum to The Commission

The attached is submitted as an Agenda document for the Commission Meeting of _____

Open Session _____

Closed Session _____

CIRCULATIONS		DISTRIBUTION	
48 Hour Tally Vote	[ ]	Compliance	[X]
Sensitive	[ ]		
Non-Sensitive	[ ]	Audit Matters	[ ]
24 Hour No Objection	[X]	Litigation	[ ]
Sensitive	[X]		
Non-Sensitive	[ ]	Closed MUR Letters	[ ]
Information	[ ]	Status Sheets	[ ]
Sensitive	[ ]		
Non-Sensitive	[ ]	Advisory Opinions	[ ]
		Other (see distribution below)	[ ]
Other	[ ]		

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RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

84 JUN 28 A10: 29

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 28, 1984

MEMORANDUM

SENSITIVE

TO: The Commission

FROM: Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

SUBJECT: Interrogatories for MUR 1641

On June 12, 1984, the Commission directed the Office of the General Counsel to draft interrogatories and an appropriate letter in MUR 1641. Attached for your review are the interrogatories and letter.

8504054245 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

David M. Ifshin, Esq.
Carolyn U. Oliphant, Esq.
Mondale for President Committee, Inc.
2201 Wisconsin Avenue, N.W.
Suite 100
Washington, D.C. 20007

Re: MUR 1641
Walter F. Mondale
Mondale for President
Committee, Inc.
Michael S. Berman, Treasurer

Dear Mr. Ifshin and Ms. Oliphant:

The Federal Election Commission notified your clients on , 1984, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time. We acknowledge receipt of your explanation of this matter which was dated April 11, 1984. Upon further review of the allegations contained in the complaint and information supplied by you, the Commission, on June 13, 1984, determined that there is reason to believe that Mondale for President Committee, Inc. and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a) a provision of the Act. You may also submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Please submit the answers and any other information within ten days of your receipt of this notification. All statements should be submitted under oath.

The Office of the General Counsel would like to settle this matter through conciliation prior to a finding of probable cause; however, in the absence of any information which demonstrates that no further action should be taken against your clients, the Office of the General Counsel must proceed to the next compliance stage as noted on page 2, paragraph 2 of the enclosed procedures.

8504054245 2

In furtherance of the Commission's investigation in this matter, please submit answers to the enclosed questions.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that your clients wish the matter to be made public. If you have any questions, please contact Lois G. Lerner, the attorney assigned to this matter, at (202)523-4143.

Sincerely,

Enclosures
Questions
Procedures

8504054245 3

INTERROGATORIES

Mondale for President Committee, Inc., Michael S. Berman, as treasurer (MUR 1641)

Please submit your response to the following interrogatories under oath within ten days.

In your response to the complaint in this matter, you stated that the Committee's reimbursement to labor organizations for phone use did not include amounts for deposits or installation charges.

1) List all labor organizations from which the Mondale for President Committee, Inc. leased/rented phonebanks and/or phones.

2) Identify all individuals in the labor organizations with whom Mondale for President Committee, Inc. dealt with regarding phone use, including their names, addresses, organizations and positions within the organization.

3) With regard to each instance where Mondale for President Committee, Inc. leased/rented phones from labor organizations:

   a) State whether phonebanks or individual phones were used.

   b) State whether Mondale for President Committee, Inc. paid installation costs for the phones, and describe how such costs were apportioned between Mondale for President Committee, Inc. and the labor organization.

   c) State whether Mondale for President Committee, Inc. paid deposit costs for the phones, and describe how such costs were apportioned between Mondale for President Committee, Inc. and the labor organization.

4) With regard to telephones rented/leased by Mondale for President Committee, Inc. from the AFL-CIO located in Dover, New Hampshire state whether:

   a) Mondale for President Committee, Inc. paid installation costs.

   b) Mondale for President Committee, Inc. paid deposit costs.

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5) In each instances where Mondale for President Committee, Inc. did not pay installation and/or deposit costs, state who paid such advance costs, including the name and address of the person in charge of paying such costs.

In your response to the complaint, you stated that the Committee's payment to labor organizations for rental charge for space was made on a per diem basis.

6) Describe what costs are associated with a per diem charge for the use of space.

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MUR 1641 Gen # 3811

RECEIVED AT THE FEC
HAND DELIVERED
84 JUN 26 A 9:56

Bud Hettinga
645 Compress Road
Las Cruces, NM 88001
June 22, 1984

FEC 84 JUN 26 A9:56

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

Dear Mr. Gross:

Earlier this year, I filed a complaint with the Commission concerning the improper use of union treasury funds by Walter F. Mondale and Mondale for President Campaign Committee, AFL-CIO, New Hampshire State Labor Council, Iowa Federation of Labor, Alabama Labor Council, National Education Association, NEA-New Hampshire, Iowa State Education Association, and Alabama Education Association. By letter dated March 7, 1984, you acknowledged that the Commission received my complaint on March 6.

The statutory period of 120 days for the Commission to act on my complaint will expire on July 5. To date I have not received any information from the Commission concerning the disposition of my complaint.

This is to notify you that I intend to have my attorneys file suit on July 6, 1984, or as soon thereafter as possible, to compel the Commission to act on my complaint, unless I receive on or before that date a written statement demonstrating that the Commission has acted on my complaint as required by law.

Sincerely,

Bud Hettinga

Ralph Martin (Bud) Hettinga, Jr.

8504054245 6

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Mondale for President Committee,) MUR 1641
Inc., et al.)
)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of June 12, 1984, do hereby certify that the Commission took the following actions in MUR 1641:

1. Decided by a vote of 5-1 to find reason to believe that Walter F. Mondale, the Mondale for President Committee, Inc., and Michael S. Berman, as treasurer, violated 2 U.S.C § 441b(a).

   Commissioners Aikens, Elliott, Harris, McDonald, and Reiche voted affirmatively for the decision; Commissioner McGarry dissented.

2. Decided by a vote of 6-0 to

   a) Hold in abeyance at this time any action with respect to other respondents;

   b) Direct the General Counsel to draft appropriate letters pursuant to the decisions made this date.

   Commissioners Aikens, Elliott, Harris, McDonald, McGarry, and Reiche voted affirmatively for the decision.

Attest:

6-13-84
Date

Marjorie W. Emmons
Secretary of the Commission

8504054245 7

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary

FROM: Office of General Counsel

DATE: June 6, 1984

SUBJECT: MUR 1641 - Erratum

The attached is submitted as an Agenda document for the Commission Meeting of _____

Open Session _____

Closed Session _____

CIRCULATIONS		DISTRIBUTION	
48 Hour Tally Vote	[X]	Compliance	[X]
Sensitive	[X]		
Non-Sensitive	[ ]	Audit Matters	[ ]
24 Hour No Objection	[ ]	Litigation	[ ]
Sensitive	[ ]		
Non-Sensitive	[ ]	Closed MUR Letters	[ ]
Information	[ ]	Status Sheets	[ ]
Sensitive	[ ]		
Non-Sensitive	[ ]	Advisory Opinions	[ ]
Other	[ ]	Other (see distribution below)	[ ]

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RECEIVED
OFFICE OF THE
COMMISSION SECRETARY
84 JUN 6 P1: 26

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 6, 1984

MEMORANDUM

SENSITIVE

TO: The Commission

FROM: Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

SUBJECT: Erratum in General Counsel's Report in MUR 1641

Recommendation 3 on page 20 of the General Counsel's Report in MUR 1641 should read:

> Find no reason to believe that the New Hampshire State Labor Council violated 2 U.S.C. § 441b(a).

Recommendation 4 was inadvertently typed twice and recommendation 3 was left out.

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM TO: CHARLES STEELE, GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/SUSAN M. TEIR SMT

DATE: JUNE 6, 1984

SUBJECT: OBJECTION - MUR 1641 GENERAL COUNSEL'S REPORT signed June 1, 1984

The above-named document was circulated to the Commission on June 1, 1984 at 4:00.

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

Commissioner Aikens	X
Commissioner Elliott	X
Commissioner Harris	X
Commissioner McDonald	X
Commissioner McGarry	
Commissioner Reiche	

This matter will be placed on the Executive Session agenda for Tuesday, June 12, 1984.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE, GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/SUSAN M. TEIR SMT

DATE: JUNE 6, 1984

SUBJECT: OBJECTION - MUR 1641 GENERAL COUNSEL'S REPORT signed June 1, 1984

The above-named document was circulated to the Commission on June 4, 1984 at 4:00.

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

Commissioner Aikens	X
Commissioner Elliott	X
Commissioner Harris	X
Commissioner McDonald	
Commissioner McGarry	
Commissioner Reiche	

This matter will be placed on the Executive Session agenda for Tuesday, June 12, 1984.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE, GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/ JODY C. RANSOM

DATE: JUNE 5, 1984

SUBJECT: OBJECTION - MUR 1641 General Counsel's Report signed June 1, 1984

The above-named document was circulated to the Commission on June 4, 1984 at 4:00.

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

Commissioner Aikens	_____
Commissioner Elliott	_____
Commissioner Harris	X
Commissioner McDonald	_____
Commissioner McGarry	_____
Commissioner Reiche	_____

This matter will be placed on the Executive Session agenda for Tuesday, June 12, 1984.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE, GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JODY C. RANSOM JCR

DATE: JUNE 8, 1984

SUBJECT: OBJECTION - MUR 1641 (Erratum)
Memorandum to the Commission
dated June 6, 1984

The above-named document was circulated to the Commission on Wednesday, June 6, 1984 at 4:00.

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

Commissioner Aikens	_____
Commissioner Elliott	_____
Commissioner Harris	_____
Commissioner McDonald	x
Commissioner McGarry	_____
Commissioner Reiche	_____

This matter will be placed on the Executive Session agenda for Tuesday, June 12, 1984.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary

FROM: Office of General Counsel

DATE: June 1, 1984

SUBJECT: MUR 1641 - General Counsel's Report

The attached is submitted as an Agenda document for the Commission Meeting of _____

Open Session _____

Closed Session _____

CIRCULATIONS		DISTRIBUTION	
48 Hour Tally Vote	[x]	Compliance	[x]
Sensitive	[x]		
Non-Sensitive	[ ]	Audit Matters	[ ]
24 Hour No Objection	[ ]	Litigation	[ ]
Sensitive	[ ]		
Non-Sensitive	[ ]	Closed MUR Letters	[ ]
Information	[ ]	Status Sheets	[ ]
Sensitive	[ ]		
Non-Sensitive	[ ]	Advisory Opinions	[ ]
Other	[ ]	Other (see distribution below)	[ ]

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SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

84 JUN 1 P5: 18

In the Matter of	)	
	)	
Walter F. Mondale	)	
Mondale for President Committee, Inc.	)	
Michael S. Berman, Treasurer	)	
American Federation of Labor and Congress of Industrial Organizations	)	MUR 1641
New Hampshire State Labor Council	)	
Iowa Federation of Labor	)	
Alabama Labor Council	)	
National Education Association	)	
NEA - New Hampshire	)	
Iowa State Education Association	)	
Alabama Education Association	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On March 6, 1984, Mr. Ralph Martin (Bud) Hettinga, Jr., filed a complaint with the Commission. 1/ The complainant alleges that Presidential candidate Walter F. Mondale, the Mondale for President Committee, Inc., ("the Committee") and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"), by accepting contributions from labor organizations. In addition, the complainant alleges that the American Federation of Labor and Congress of Industrial Organizations ("AFL-CIO"), the New Hampshire State Labor Council ("New Hampshire AFL-CIO"), the Iowa Federation of Labor ("Iowa AFL-CIO"), the Alabama Labor

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1/ The complaint was originally rejected by the Office of General Counsel because it failed to meet the statutory requirement that a complaint be sworn to. See 2 U.S.C. § 437g(a)(1). The complaint was subsequently modified and submitted to the Commission on March 6, 1984. A copy of the complaint was circulated to the Commission on March 8, 1984.

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Council ("Alabama AFL-CIO"), the National Education Association ("NEA"), the National Education Association of New Hampshire ("New Hampshire-NEA"), the Iowa State Education Association and the Alabama Education Association made contributions to the Mondale for President Committee, Inc., using treasury funds, in violation of 2 U.S.C. § 441b(a).

The complaint is based on articles appearing in The Washington Post (Dec. 14, 1983, Feb. 10, 1984, Feb. 14, 1984), The Wall Street Journal (Feb. 10, 1984, Feb. 13, 1984), The New York Times (Feb. 14, 1984), The Christian Science Monitor (Feb. 14, 1984) and U.S. News and World Report (Oct. 17, 1983), as well as, a television report from NBC's "Today Show" (Feb. 9, 1984).

On the basis of information appearing in these reports, and upon his own belief, the complainant asserts that Mr. Mondale, the Committee and Mr. Berman, as treasurer, made use of labor organization facilities (i.e., telephones and rental space) for activity in connection with the 1984 presidential elections at a charge below the normal and usual charge for the use of the facilities. The complainant asserts that the difference between the amount being charged to Mondale and the full market value of these goods and services represents prohibited contributions of union treasury funds under 2 U.S.C. § 441b(a). Specifically, the complainant charges that Mr. Mondale and the Committee (1) are paying ten cents a piece for calls costing other candidates twenty

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to fifty cents a piece, (2) are not having to pay deposits and installation charges which other candidates have to pay and (3) are not paying full fair market value for office space.

By letter of March 9, 1984, the Commission notified the respondents of the complaint. On April 11, 1984, the Office of the General Counsel received the response of the Mondale for President Committee (See Attachment I at pages 1-27), which response was supplemented by a response of April 13, 1984. See Attachment II at pages 28-29. On April 11, 1984, the Office of the General Counsel also received a letter constituting the response of AFL-CIO, Iowa AFL-CIO and Alabama AFL-CIO). See Attachment III at pages 30-42. On April 13, 1984, the Office of the General Counsel received a response filed on behalf of NEA, New Hampshire NEA, Iowa State Education Association, and Alabama Education Association (See Attachment IV at pages 43-59) which was supplemented by a response received on April 18, 1984, See Attachment V at pages 60-70. The three responses urge that the Commission dismiss the complaint as insufficient to satisfy the requirements of 11 C.F.R. § 111.4(d) and Commission policy set forth in Commission Memorandum No. 663 (Agenda Document #79-299, Nov. 15, 1979) or, in the alternative, find no reason to believe a violation of the Act has occurred and close the file in this matter.

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II. LEGAL AND FACTUAL ANALYSIS

A. Propriety of the Complaint

Respondents raise as a threshold defense the nature and content of the complaint upon which this matter is based. See Attachments at 1,2,8-19,30,44-46. Respondents assert that the complainants' allegations are based entirely on unsubstantiated newspaper articles and television reports which, even if taken as true, fail to describe any violation of the Act. Moreover, respondents argue that the use of unsubstantiated articles in this manner fails to meet the requirements of Commission regulations for an acceptable complaint, as set forth in 11 C.F.R. § 111.4(d) and Commission Memorandum No. 663.

Commission Memorandum No. 663 sets forth a policy adopted by the Commission on November 15, 1979, concerning the opening of compliance actions on the basis of newspaper articles. The Commission approved the recommendation of the General Counsel to continue to accept complaints based on newspaper articles pursuant to Commission Memorandum No. 663. As noted in this document, the legislative history of 2 U.S.C. § 437g(a)(1), in particular the debates in the House of Representatives, indicate that the requirements of signed, sworn and notarized complaints stemmed from a desire to deter false accusations by requiring that complainants identify themselves and their sources and that they face prosecution for false statements (See e.g., remarks of

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Representative Rostenkowski, 122 Cong. Rec. H2542 (daily ed. March 30, 1976). "These requirements are met without further requirements for external complaints based on newspaper articles." Commission Memorandum 663, page 3. The issue of possible inaccuracies is met by the requirement that news articles used as a base for complaints be substantive in their statements of fact.

In summary, Commission Memorandum No. 663 recommended that complaints based on newspaper articles be accepted:

> ...so long as a complaint...satisfied 2 U.S.C. § 437g(a)(1), by including a sworn statement that the complainant believes the facts to be true as alleged, and satisfies 11 C.F.R. § 111.2 [now § 111.4], in that the news article on which the complaint is based must be substantive in its facts....

Respondents in the present matter argue that "the news accounts upon which this complaint is based are not well-documented or substantial, and do not set forth a substantive statement of facts." See Attachment at 9. The complainant has enclosed newspaper articles which, he states, "indicate that Mondale and his election committee (1) are paying ten cents apiece for calls costing other candidates twenty to fifty cents apiece, (2) are not having to pay deposits and installation charges which other candidates have to pay, and (3) are not paying full fair market value for office space. The difference between the amount being charged to Mondale and the full fair market value of these goods and services represents an illegal

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contribution of union treasury funds under § 441b..." See Complaint at 10 and 11.

The allegations in the complainant's letter are clearly substantive in content. Particular persons are named and particular acts and violations of the Act are alleged to have taken place. Therefore, the present complaint meets the Commission's criteria for a complaint based on newspaper articles.

Respondents argue that the complaint is deficient because it does "not describe any violation of the Act." See Attachment at 30. Respondents base this argument upon the language of 11 C.F.R. § 111.4(d)(3) which states that "[t]he complaint should conform" to the provision that "[i]t should contain a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction."

The Explanation and Justification which accompanied Section 111.4 differentiated between the statutory requirements of the complainant's full name and address and of a sworn, signed and notarized statement with which a complaint must comply in order to be considered proper and actionable (11 C.F.R. § 111.4(b)), and additional requirements which should be met (11 C.F.R. § 111.4(d)) (Emphasis added). In the absence of the latter types of information, i.e., a clear statement of facts, the Commission "may" find that the complaint is insufficient and

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vote to take no action. Put another way, subsection (d) is not an absolute requirement, but, rather, provides the Commission with a basis for refusing to investigate a complaint in the absence of sufficient information provided in another form.

In the present matter, the Complainant's letter and accompanying news articles provide sufficient information upon which the Commission can base a decision as to whether to proceed. Although the news articles do not state explicitly those sections of the Statute which appear to have been violated by the acts described, this failure is not fatal to the complaint. The complaint is proper as it stands because the letter and the attached articles, read together, provide sufficient information for the Commission to address the complaint fully.

B. The Alleged Statutory Violations

1. Legal Framework

The Commission's regulations at 11 C.F.R. § 114.9(d) govern the use or rental of labor organization facilities by other persons. According to this section, persons who make use of labor facilities for activity in connection with a federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge for use of the facilities. The normal and usual charge for goods is defined as "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution..." 11 C.F.R. § 100.7(a)(1)(iii)(B).

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Goods provided without charge or at a charge which is less than the usual and normal charge for such goods constitute a contribution. 11 C.F.R. § 100.7(a)(1)(iii)(A). The Act at 2 U.S.C. § 441b(a) prohibits a labor organization from making contributions in connection with any federal election. Furthermore, section 441b(a) prohibits a federal candidate or political committee from accepting contributions from labor organizations.

2. Use of Telephones

The complainant contends that Mr. Mondale and the Committee have not been adequately reimbursing labor organizations for the use of labor telephones. Specifically, the complainant asserts that Mr. Mondale and his campaign committee are paying ten cents apiece for calls costing other candidates twenty to fifty cents apiece and are not having to pay deposits and installation charges which other candidates have to pay. The complainant's allegations are not based on personal knowledge, but, rather, are based on newspaper articles and a television report.

A newspaper article appearing in The Washington Post on February 10, 1984, reports that in Iowa the Mondale campaign agreed to a "leaseback" arrangement under which it pays the unions ten cents for each call on union phones. Cranston Iowa Coordinator John Law is reported to have said that when deposit and service fees are considered it costs his campaign between 30 and 50 cents per call.

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A newspaper article appearing in the Christian Science Monitor on February 14, 1984, reports that Mondale's Iowa State Coordinator, Joe Trippi, told reporters that the campaign was using union telephones across the state at a bargain price of ten cents a call. The same article reports that the Glenn campaign must spend twenty to fifty cents a call to reach voters.

On NBC TV's "Today Show" on February 9, 1984, Ken Bode reported that the Mondale campaign leased labor phones operating in Sioux City Iowa and paid ten cents a call.

Two newspaper articles, The Washington Post (2/10/84) and the Christian Science Monitor (2/14/84) report that when Senators John Glenn (D-Ohio), Alan Cranston (D-Calif.) and Gary Hart (D-Colo.) ordered telephones for their campaign headquarters, they had to put down deposits ranging from $60 to $400 for each phone. According to the articles, Mr. Glenn paid $1,400 for four phones in Davenport, Iowa, Mr. Cranston paid $1,600 for six phones in Davenport, and Mr. Hart paid $500 for one phone in Iowa City. The articles report that the Mondale campaign uses union telephones that are already in place, thus avoiding the usual deposit.

In response to the above allegations, the Committee maintains that contrary to the complainant's assertions, the committee is not paying ten cents per telephone call, but, rather, is paying the normal and usual charge for the use of telephones. See Attachment at 4. The response states that

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the Committee has established procedures for its use of union facilities to ensure compliance with Commission requirements. According to its response, in October 1983, before any labor owned facilities or equipment were utilized, the Committee developed a form entitled Agreement for the Use of Labor Organization Facilities and Equipment ("Use Agreement"). The form Use Agreement provides that:

> The labor organization agrees to invoice the Committee for the actual use of the facilities and equipment set forth above in an amount based on the normal and usual rental charge for such facilities and equipment in this community and including any actual telephone charges incurred by the Committee. The invoice will also include billing for the cost of any supplies provided to the Committee * * * The Committee agrees to reimburse the labor organization for use of the labor organization's facilities within a commercially reasonable time.

See Attachment at 20.

The Committee's response states that copies of the Use Agreements were provided to Committee employees in the field who were authorized to make arrangements for the use of labor facilities and equipment. According to the response, the field employees were instructed to obtain signed Use Agreements for all such arrangements. In some instances these arrangements were made directly with union locals and in others they were made with representatives of the international unions. According to the response, no Use Agreements were entered into with the AFL-CIO or the NEA at the national level, however, a few of the Agreements

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were entered into with the AFL-CIO state federations or with the NEA state affiliates.

The response states that after the Use Agreements were executed, Committee field employees forwarded them to the Committee's national headquarters in Washington, D.C. where they are matched to invoices received from labor organizations and prepared for payment. According to the response, this procedure ensures that the Committee has information to make inquiries and request invoices in the event that they are not received within a reasonable time.

In order to calculate the normal and usual charge for the use of labor phone banks in Iowa and New Hampshire the Committee states that its procedures was to keep logs recording its use of such phone banks. The logs, a sample of which appears in the attachments at page 21, reflect the number of hours each phone was used. The logs are provided by the Committee to the appropriate labor organization officials so that bills may be prepared. The Committee's response provides an illustration of how bills are generally calculated by labor organizations:

> Phone bank with 10 phones.
> For the month, the total number of hours each phone was used each day by the campaign is taken from the logs and added giving total hours for the month (e.g., Day 1 -- 2 phones for 4 hours and 8 phones for 2 hours is 24 phone hours).
> The same calculation is applied to the labor use.
> Total campaign hours plus total labor hours are added to give total use.
>
> | | | |
> |---|---|---|
> | Campaign | 750 | hours |
> | Labor | 1000 | hours |
> | Total use | 1750 | hours |
> | Campaign use is | 750 / 1750 | = 43% |

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The percentage is applied to all flat rate charges such as regular monthly service charges and flat rate WATS line charges. In addition, where long distance toll calls were made, the bills are reviewed and compared to the logs to determine the actual charges attributable to the Committee and to the labor organizations. See Attachment at 5.

In light of the above-described manner in which bills are calculated, the Committee maintains that "any fixed figure reflecting the charge per call such as those suggested by rival campaigns - whether it is ten cents or thirty cents - is meaningless." According to the Committee's response, the charge per call depends on a variety of factors, such as the volume of calls made and the amount of long distance charges.

The Committee's response states that the Committee has already received initial invoices from labor organizations for phone use in Iowa and New Hampshire totalling over $14,500, and has paid bills in the amount of $7,662.48. The response states that additional invoices are being prepared for phone bills recently received in Iowa and in New Hampshire and for the use of space and other equipment incidental to the use of phones.

Responses received from the AFL-CIO, the NEA and their state affiliates affirm the information provided by the Committee. Respondents, AFL-CIO, Iowa AFL-CIO, Alabama AFL-CIO, NEA, and the Alabama Education Association, maintain that they have not furnished any goods or services to the Mondale for President Committee nor rented or otherwise permitted the use of their facilities or equipment by the Committee. See Attachment at 31,46,47,48. On this basis, these respondents request that

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the Commission summarily dismiss the complaint filed against them. See Attachment at 46.

As to the remaining respondents, the New Hampshire AFL-CIO, NEA-New Hampshire and the Iowa State Education Association, the responses state that such organizations did enter into agreements with the Committee for the use of facilities and/or telephones. According to the responses, the Committee has already been or "within a commercially reasonable time" will be billed for the use of such facilities and telephones. In addition, the responses state that "the bills have been or will be in the amount of the normal and usual rental charge computed in accordance with applicable Commission regulations." See Attachment at 48. The specific arrangements with the Committee are detailed in affidavits submitted on behalf of New Hampshire AFL-CIO, NEA New Hampshire, and the Iowa State Education Association. See Attachments at 36-37,61-70. The affidavits of Charles E. Scott, Representative of New Hampshire AFL-CIO, Fred R. Comer, Executive Director of the Iowa State Education Association and Melvin Myler, Jr., Executive Director of NEA-New Hampshire, confirm that the labor organizations entered into agreements with the Committee for use of their telephones and facilities using the form "Use Agreements" supplied by the Committee. Moreover, the affidavits confirm that telephone bills were computed in accordance with the formula described in the Committee's response. See discussion infra at pages 11 and 12.

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As to the complainant's allegation that the Committee is not having to pay deposits and installation charges which other candidates have to pay, the Committee's response is twofold. The Committee states that with regard to telephones installed in its own headquarters, the Committee, like the Glenn campaign, has a national phone payment agreement through which all committees phones are ordered by and billed to the national headquarters. The Committees response states that all deposits are handled through a letter of credit secured by a committee account. See Attachment at 14. With regard to telephones leased from the unions by the Committee, the response states that reimbursement for the use of such phones does not include amounts for deposits or installation charges. 2/ The Committee maintains that this is in accordance with FEC opinions and rulings dealing with the use of union and corporate telephones. Specifically, the Committee cites to Advisory Opinion 1978-34, 3/ OC 1976-30 and MURs

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2/ An invoice submitted with the response of New Hampshire AFL-CIO indicates that the Committee has been billed a portion of the installation costs. See Attachment at page 40.

3/ The phrase "normal and usual rental charge" is defined in the Regulations to mean "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution." 11 C.F.R. § 100.7(a)(iii)(B). With specific regard to telephones, the Commission gave the phrase further definition in advisory opinion 1978-34, stating that the "normal and usual rental charge" is:

> [T]he cost...of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning. See 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶5328.

1314(80), 1349(81), 1369(81). The Committee argues that the requirement that a campaign pay a portion of the deposit or installation fee would be comparable to requiring a committee which makes use of furniture to pay the cost of moving the furniture into the office or requiring that utility cost calculations include the original costs of bringing the electricity into the building. See Attachment at 6.

It is the view of the General Counsel's Office that the information provided by the respondents appears to substantiate their denial that the Mondale committee is paying ten cents apiece for telephone calls or that it has otherwise made use of labor telephones and facilities at a charge below the usual and normal charge for the use of such facilities.

The scheme for allocating phone service described by the Committee demonstrates that the Committee is not paying a fixed charge per call, but rather that the charge per call depends on a variety of factors such as the volume of calls made and the amount of long distance charges. The scheme appears reasonable in that it takes into consideration the relative use of telephones by the Committee and the labor organizations and divides the actual cost of the telephones according to relative use. The cost of the phone calls includes the use of office space, utilities and furniture to conduct the telephoning.

In that respondents have submitted copies of invoices and affidavits which indicate that the formula prescribed by the

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Committee is being applied, it appears that the Committee is being charged the normal and usual rental charge for the use of labor telephones. Accordingly, it does not appear that the Committee has accepted in-kind contributions from labor organizations in violation of 2 U.S.C. § 441b(a).

3. Use of Office Space

The complainant alleges that Mr. Mondale and the Committee are not paying the full fair market value for office space leased from unions. The allegation appears to be based on four newspaper articles.

A newspaper article appearing in The Washington Post on February 10, 1984, reported that in Davenport, Iowa, Mr. Mondale "pays a cut-rate $125 a month rent for his modest headquarters -- half the normal rent. The United Food and Commercial Union picks up the rest of the tab...." Two additional articles, one appearing in The New York Times (2/14/84) and the other appearing in The Wall Street Journal (2/13/84) merely state charges by the Glenn campaign that labor groups provided the Mondale campaign with office space at costs below fair market value. Finally, an article appearing in The Christian Science Monitor (2/14/80) states that "Mondale was also said to be leasing union halls for campaign offices across the [Iowa] state for $269 apiece, a price that other campaigns said did not reflect the true value."

The Committee's response denies the above allegations and charges that the information provided in the news account is misleading. According to the response, the Committee leased

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headquarters space from labor organizations in only nine locations in Iowa and New Hampshire. The Committee contends that it paid fair market value for the space it used.

According to the response, in 15 locations in Iowa and New Hampshire, the Committee and a labor organization each entered into separate leases with a landlord for space in the same building. The response states that it is with respect to these 15 locations where the Committee and a labor organization made use of adjacent space that are referred to in the news articles suggesting that the Committee paid only half the normal rent. The response explains that although it is accurate that the Committee paid half the rent, the articles are misleading in that they do not explain that the Committee used only half the space. 4/ The Committee claims that these were arms length transactions in which rent for space was determined by the landlord. According to the response, the Committee paid rent to the landlord for its share of space and the labor organization paid rent to the landlord for its share. The Committee maintains that 2 U.S.C. § 441b and 11 C.F.R. § 114 are not relevant since the facilites were not owned by a labor organization. Moreover, the Committee states that nothing in the Act or regulations prohibits the establishment of adjacent facilities.

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4/ The response also notes that The Washington Post's reference to space leased from the United Food and Commercial Workers is inaccurate in that the Committee did not lease space from this organization but rather from the Quad City Federation of Labor AFL-CIO. See Attachment at 11.

In response to the allegations of in The Christian Science Monitor (2/14/80), regarding the Mondale campaign's leasing of union halls for campaign offices in Iowa for $269 apiece, the Committee, states that "[t]he figure of '$269 apiece' for rent for each headquarters is inaccurate and groundless, as no source is given for this improbable figure." See Attachment at 15. According to the Committee, arrangements for the lease of office space were made separately in each location in Iowa with different landlords. The response states that in most instances the space was leased from commercial landlords who are not labor organizations. The Committee maintains that in all instances leases were signed with a rent based on the fair market value of the space in that location.

The response of the AFL-CIO and its state affiliates denies the allegation that these organizations have rented space to the Mondale campaign at below fair market value. According to their response, these organizations have not permitted their facilities to be rented or used by the Mondale Campaign. The response notes only that the New Hampshire AFL-CIO leased space in the same offices which were leased by the Mondale campaign.

The response of NEA and its state affiliates also denies the complainant's allegations with regard to the use of office space. The response states that neither the NEA or the Alabama Education Association have entered into any arrangement with the Committee for the use of their facilities. With regard to the Iowa State

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Education Association and NEA New Hampshire, the response states that these organizations did enter into arrangements with the Committee for the use of facilities. The response maintains, however, that the arrangements did not violate that Act or Commission Regulations. Submitted with the response are the affidavits of Fred R. Comer, Executive Director of the Iowa State Education Association and Mr. Melvin Myler, Jr., Executive Director of NEA-New Hampshire. The affidavits set forth the circumstances surrounding the arrangements made with the Committee for the leasing of office space. The affidavits reflect that billings for office rental were computed based on the square footage of space occupied by the Mondale Committee or a per diem amount regularly charged by the organization, regardless of the amount of space used. See attachments at 61-70. The method used to calculate the rental charges appears reasonable given the assumptions that the valuations are accurate and the amount of Committee usage was reasonably determined.

In view of the foregoing information which appears to substantiate the respondents' denial that the Committee used labor office space at a charge below the usual and normal rental charge for the use of such facilities, the General Counsel's Office recommends that the Commission find no reason to believe that a violation of 2 U.S.C. § 441b(a) occurred and close the file in this matter.

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Recommendations

1. Find no reason to believe that Walter F. Mondale, the Mondale for President Committee, Inc., and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a).

2. Find no reason to believe that the American Federation of Labor and Congress of Industrial Organizations violated 2 U.S.C. § 441b(a).

3. Find no reason to believe that the Iowa Federation of Labor violated 2 U.S.C. § 441b(a).

4. Find no reason to believe that the Iowa Federation of Labor violated 2 U.S.C. § 441b(a).

5. Find no reason to believe that the Alabama Labor Council violated 2 U.S.C. § 441b(a).

6. Find no reason to believe that the National Education Association violated 2 U.S.C. § 441b(a).

7. Find no reason to believe that NEA-New Hampshire violated 2 U.S.C. § 441b(a).

8. Find no reason to believe that the Iowa State Education Association violated 2 U.S.C. § 441b(a).

9. Find no reason to believe that the Alabama Education Association violated 2 U.S.C. § 441b(a).

10. Close the file in MUR 1641.

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11. Approve and send the attached letters.

Charles N. Steele
General Counsel

June 4, 1984
Date

By: Kenneth A. Gross
Associate General Counsel

Attachments
Response of the Mondale for President Committee, Inc. (pages 1-29)
Response of the AFL-CIO, New Hampshire AFL-CIO, Iowa Federation of Labor, and the Alabama Labor Council (pages 30-42)
Response of the National Education Association, the Alabama Education Association, the Iowa State Education Association and NEA-New Hampshire (pages 43-70)
Letters to Respondents and complainant

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Mondale for President
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007
Telephone: 202-625-1600

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Kramer

April 11, 1984

Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

RE: MUR 1641

Dear Mr. Steele:

This letter is the response of the Mondale for President Committee, Inc. ("the Committee") to the complaint filed with the Commission by Ralph Martin (Bud) Hettinga on March 6, 1984.1/ The complaint alleges that the Committee has received contributions from labor organizations which are prohibited by 2 U.S.C. Section 441b. Complainant's allegation is not based upon any evidence but rather is based entirely on news articles which essentially quote spokesmen for rival political campaigns.

Based on these news articles, Mr. Hettinga contends that the Committee has not been adequately reimbursing labor organizations for the use of labor office space and telephones. These articles are either inaccurate or do not reflect any violation of applicable law or regulations. Moreover, the use of unsubstantiated news articles in this manner fails to meet the requirements of Commission regulations for an acceptable complaint, as reflected in Commission Memorandum No. 663 of November 5, 1979.

1/ Other named respondents are the AFL-CIO, New Hampshire State Labor Council, Iowa Federation of Labor, Alabama Labor Council, National Education Association, NEA-New Hampshire, Iowa State Education Association and Alabama Education Association.

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(1)

Paid for by Mondale for President, Inc.

Accordingly, on the basis of the Committee response set forth herein, this complaint should be dismissed (1) because there is no reason to believe a violation of 2 U.S.C. Section 441b has occurred since the Committee is paying the normal and usual rental charge for all facilities and equipment leased from labor organizations; or (2) because the newspaper articles upon which the complaint is based are not well-documented or substantial, and therefore, provide an insufficient basis for the initiation of an enforcement action.

I. Legal Framework

The Committee may utilize equipment or facilities owned by a labor organization under 11 C.F.R. Section 114.9(d). If it does so, the Committee is to reimburse the labor organization for the normal and usual charge within a commercially reasonable time.2/ The normal and usual charge for goods is defined as "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution..." 11 C.F.R. Section 100.7(a)(1)(iii)(B).

In applying these regulations to the use of office space and telephones owned by labor organizations, the Committee understands that in general these regulations call for:

(1) payment for the fair market retail value of any such office space, including office equipment and furniture used, as well as payment of a proportional share of other costs such as utilities unless included in the calculation for rent; and

2/ The Committee's Use Agreement, which is explained and set forth infra at 3, provides that payment will be made within a commercially reasonable time. The Complaint makes no allegation to the contrary.

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(2) reimbursement of a proportional cost of any such telephones used, based on the monthly service charges plus any actual additional charges, such as long-distance costs incurred by the Committee, as well as reimbursement for use of space, utilities, and equipment incidental to the use of the phones.

II. Procedures for Committee Use of Labor Facilities and Equipment

The Committee has established procedures for its use of union facilities to ensure compliance with Commission requirements. In October, 1983, before any labor-owned facilities or equipment were utilized, the Committee developed a form entitled Agreement for the Use of Labor Organization Facilities and Equipment ("Use Agreement") (Exhibit A). The form Use Agreement provides that:

> The labor organization agrees to invoice the Committee for the actual use of the facilities and equipment set forth above in an amount based on the normal and usual rental charge for such facilities and equipment in this community and including any actual telephone charges incurred by the Committee. The invoice will also include billing for the cost of any supplies provided to the Committee * * * The Committee agrees to reimburse the labor organization for use of the labor organization's facilities within a commercially reasonable time.

Funds were specifically budgeted by the Committee to reimburse labor organizations for the use of facilities and equipment. Copies of the Use Agreements were provided to Committee employees in the field who were authorized to make arrangements for the use of labor facilities and equipment. The field employees were instructed to obtain signed Use Agreements for all such arrangements. In some instances these arrangements were made directly with union locals and in others they were made with

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representatives of the international unions. While no Use Agreements were entered into with the AFL-CIO or the NEA at the national level, a few of the Agreements were entered into with the AFL-CIO state federations or with the NEA state affiliates.

After the Use Agreements were executed, Committee field employees forwarded them to the national headquarters in Washington, D.C. Under this procedure, the Committee retains the Use Agreements and matches them to the invoices as they are received from the labor unions and prepared for payment. This procedure insures that the Committee has information to make inquiries and request invoices in the event they are not received within a reasonable time.

III. Use of Telephones

Contrary to Complainant's assertion, the Committee is not paying 10 cents per telephone call but rather is paying the normal and usual charge for the use of telephones. In order to calculate the normal and usual charge, in Iowa and New Hampshire 3/ the procedure was for the Committee to keep logs recording its use of the phone banks. (A sample log is attached as Exhibit B.) These logs reflect the number of hours each phone was used and copies of the logs were provided by the Committee to the appropriate labor organization officials so that the bills could be prepared.

3/ Although the complaint names the Alabama Labor Council and the Alabama Education Association, the news excerpts upon which the complaint is based make no reference to any labor facilities in Alabama used by the Committee. In fact, there were no such arrangements. (Exhibit C)

In accordance with Commission requirements, the bills generally are calculated by the labor organizations in the following manner:

> Phone bank with 10 phones.
> For the month, the total number of hours each phone was used each day by the campaign is taken from the logs and added giving total hours for the month (e.g., Day 1 -- 2 phones for 4 hours and 8 phones for 2 hours is 24 phone hours). The same calculation is applied to the labor use.
> Total campaign hours plus total labor hours are added to give total use.
> Campaign 750 hours
> Labor 1000 hours
> Total use 1750 hours
> Campaign use is $\frac{750}{1750}$ = 43%

The percentage is applied to all flat rate charges such as regular monthly service charges and flat rate WATS line charges. In addition, where long distance toll calls were made, the bills are reviewed and compared to the logs to determine the actual charges attributable to the Committee and to the labor organizations.

Thus, any fixed figure reflecting the charge per call such as those suggested by rival campaigns - whether it is 10 cents or 30 cents - is meaningless. As can be seen, the charge per call depends on a variety of factors, such as the volume of calls made and the amount of long distance charges.

The Committee has already received initial invoices from labor organizations for phone use in Iowa and New Hampshire totalling over $14,500, and has paid bills in the amount of $7,662.48. At this time, it is our understanding that additional invoices are being prepared for phone bills recently received in Iowa and in New Hampshire and for the use of space and other equipment incidental to the use of phones.

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The Committee's reimbursement does not include amounts for deposits or installation charges. This is in accordance with FEC opinions and rulings dealing with the use of union and corporate telephones. These decisions have required campaigns to reimburse on the basis of monthly service fees plus additional actual charges. See AO 1978-34, OC 1976-30, MURs 1314(80), 1349(81), 1369(81). In none of these matters has there been any requirement that a campaign pay a portion of the deposit or installation fee.4/

IV. Use of Office Space

The complaint further alleges that the campaign did not pay the full fair market value for office space leased from unions. The Committee leased headquarters space from labor organizations in only nine locations in Iowa and New Hampshire. The Committee paid fair market value for the space it used and there are no facts put forward in the complaint to the contrary. In fifteen locations in Iowa and New Hampshire, the Committee and a labor

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4/ This would be comparable to requiring a Committee which makes use of furniture to pay the cost of moving the furniture into the office or requiring that utility cost calculations include the original costs of bringing the electricity into the building. The Committee and the labor organizations are utilizing a reasonable method to calculate the normal and usual charge which should be accepted by the Commission in the absence of any other specific method required by regulation. The actual amounts billed and paid by the Committee may be reviewed by the Commission in the course of the audit conducted pursuant to 11 C.F.R. Section 9038. As to deposits, the Committee would not have had to put up cash deposits in any event since it has a Letter of Credit under a National Phone Payment Agreement to cover all deposits for Committee phones.

organization each entered into separate leases with a landlord for space in the same building.5/

It is apparently these fifteen locations where the Committee and a labor organization made use of adjacent space that are referred to in the news articles suggesting that the Committee paid half the normal rent. While it is accurate that the Committee paid half the rent, these articles are either mistaken or misleading in that they do not explain that the Committee only used half the space. These were arms length commercial transactions in which the rent for the space was determined by the landlord. The Committee paid rent to the landlord for its share of the space and the labor organization paid rent to the landlord for its share. Section 441b and the Part 114 regulations are not relevant since the facilities were not owned by a labor organization. Nothing in the Act or regulations prohibits the establishment of adjacent facilities. Cf. AO 1978-67. In each location, the Committee used its space as a headquarters and the labor organization used its space for phone banks.

V. Committee Expenditures for Use of Office Space and Telephones

Although the real issue is that the Committee paid the normal and usual charge for labor facilities and equipment, many of the newspaper statements made by other campaign personnel suggest that the Committee may not have had to spend as much overall as other campaigns for office and phones because of its

5/ These 24 locations do not include Mondale headquarters where no labor organization had adjacent space, or other labor facilities which Committee staff used only at night and on weekends for phoning pursuant to a use agreement.

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lease arrangements with labor. Such statements clearly were based on conjecture by individuals who had no involvement in or knowledge of the arrangements made by the campaign for payment of these expenses since no reports filed with the Commission support such a conclusion. Even a cursory review of the disclosure reports would have reflected the error of these assertions.

Comparative rent and phone figures for the Committee (for its own phones and office space) and the Glenn and Hart campaigns are attached as Exhibit E. These figures obtained from FEC disclosure reports indicate that for the Committee's own phones -- not including the labor phones -- the Committee paid: $59,723.53 (telephones), $31,622 (deposit - National Phone Payment Agreement), and $7,281.27 (MCI) in New Hampshire; and $66,088.95 (telephones), $46,061 (NPPA deposits) and 3,367.59 (MCI) in Iowa.

The Committee's payments are far in excess of the amounts paid either by the Glenn or Hart campaign. Glenn reports reflect only $25,383.40 and Hart reports $16,529.34 paid for New Hampshire telephones as compared to the Committee's $59,723.53. For New Hampshire rent, Glenn reports show $9,788.68 and Hart reports show $9,495.09 as compared to $21,140.87 for the Committee. The Iowa figures reflect similar disparities. In addition to these substantial amounts for Committee telephones, the Committee is paying the normal and usual charges as set forth previously for the labor phones utilized.

VI. Complaints Based Upon Newspaper Articles

This complaint was originally rejected by the Office of General Counsel because it failed to meet the statutory require-

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ment that a complaint be sworn to. Although the notary's certification was subsequently modified to include the words "sworn to," there is no suggestion that this complaint is founded in whole or in part on any personal knowledge of the complainant.

On November 15, 1979, the Commission adopted a policy set forth in Commission Memorandum No. 663 (the "policy") concerning the opening of compliance actions on the basis of newspaper accounts. Since complainant has not asserted any personal knowledge of the facts surrounding the Committee's leasing of labor facilities and equipment, and has not submitted any evidence, this complaint must meet the standards established by the Commission in its policy on newspaper articles.

That policy requires a news account to be well-documented, substantial, and to meet all of the requirements of a complaint in order to constitute a sufficient basis for an enforcement action. Policy at 2. Under the regulations, a complaint must set forth a "clear and concise statement of the acts which are alleged to constitute a violation." 11 C.F.R. Section 111.2(b)(2). Where the only statement of facts is that contained in a news report, the Commission noted that an article must be "substantive in its statement of fact." Policy at 3. By contrast, the news accounts upon which this complaint are based are not well-documented or substantial, and do not set forth a substantive statement of facts.

Complainant has excerpted nine passages from news accounts which he asserts indicate that the Committee has received goods and services at below-market rates. Other than repeating gen-

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eralized quotes from rival campaigns alleging below-market rates, none of these excerpts provide any documentation or identification of the source of the information. Most of the excerpts do not even state any facts which, even if they were accurate, would constitute a violation of the Act. Moreover, where the excerpts do state specific facts which would constitute a violation, those facts are inaccurate. It is precisely because of these types of undocumented accusations and inaccurate factual assertions that the Commission adopted a policy of careful scrutiny of complaints based solely on newspaper articles. A review of the excerpts relied upon by complainant demonstrates the insufficiency of the complaint.

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VII. News Excerpts Relied Upon by Complainant

Set forth below are each of the excerpts relied upon by complainant and a point by point response to each of those excerpts:

(1) The Washington Post February 10, 1984

> In Iowa, when Sens. John Glenn (D-Ohio), Alan Cranston (D-Calif.) and Gary Hart (D-Colo.) ordered telephones for their campaign headquarters, they had to put down deposits ranging from $60 to $400 for each phone. Glenn paid $1,400 for four phones in Davenport, Cranston put down $1,600 for six phones in Davenport and Hart paid $500 for one phone in Iowa City.
>
> But Walter F. Mondale has 16 phones in his Davenport headquarters above the Scott County Democratic Central Committee -- and his campaign did not have to make a deposit. He also pays a cut-rate $125 a month rent for his modest headquarters -- half the normal rent.
>
> The United Food and Commercial Union picks up the rest of the tab and rents the phones. Mondale, the front-runner for the Democratic presidential nomination, was endorsed by the AFL-CIO and National Education Association and has similar cost-sharing arrangements with the labor groups for phones and headquarters space in 19 Iowa cities.

They charge that these arrangements are enabling Mondale to exceed the $660,000 federal spending ceiling in Iowa and the New Hampshire limit of $391,400 by tens of thousands of dollars.

The Mondale campaign has agreed to a "lease-back" arrangement under which it pays the unions a total of $5,000 for the 19 locations plus 10 cents for each call on the union phones.

Phones traditionally are one of the major expenses for a large campaign. Cranston Iowa coordinator John Law said that when deposit and service fees are considered it cost his campaign between 30 to 50 cents per call.

Response:

These excerpts do not set forth a violation of the Act. The facts, to the extent they are accurate, merely describe an arrangement of adjacent office space and use of union phones pursuant to an agreement for reimbursement. The assertion that the Committee is paying half the normal rent at a cut-rate is unfounded. The Committee paid half the rent only because it was using half the space. The other space was paid for and used by a labor organization. Neither the Act nor the regulations prohibit the Committee from dividing space with another entity, provided the Committee pays for its share. In fact, it was not the UFCW, but rather the Quad City Federation of Labor AFL-CIO from whom the Committee leased space. The Committee paid $250 in rent.

The labor phones referred to in the article were installed by a labor organization to contact its members. When those phones were not being used to contact labor organization members, the Committee used them pursuant to a Use Agreement in accordance with Committee procedures discussed previously. The Act and regulations expressly allow a campaign to use union phones provided that reimbursement for the normal and usual charge is made

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within a commercially reasonable time. The method for calculating the bills is set forth supra at 4, 5.

The excerpt concerning the $5000 rental figure and the 10 cent per call charge is completely erroneous. The news story does not indicate a source for the information. The Committee entered into a Use Agreement separately in each location in which it was using labor space and phones. There were no overall arrangements made for offices for any flat fee. Moreover, as discussed above, the normal and usual charge was paid for all facilities and equipment. Even if the amount of 30 to 50 cents per call quoted from Senator Cranston's Iowa coordinator reflects cost, it is a meaningless figure for comparison, since the charge per call depends on a variety of factors, such as the number of long distance calls and the volume of calls made.

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(2) The Wall Street Journal February 10, 1984

> For 10 days in January, 10 local union members, each paid $3.50 an hour in union funds, burned up the lines in an effort to identify Mondale supporters, actual and potential, so they later could be urged to participate in the caucuses. Information from this phone canvassing, mixed with the results of 18 other labor phone-bank operations across the state, was transmitted to AFL-CIO headquarters in Washington, which is spearheading labor's effort for Mr. Mondale
>
> When not being worked by union people on Mr. Mondale's behalf, the phones are leased to the campaign for use by other Mondale supporters. "We could sure use a phone bank like that, " says Stephen Doak, the local coordinator for the Glenn campaign. "We can't afford it.

Response:

These excerpts do not set forth a violation of the Act. The first paragraph describes permissible labor communication with its members. The second paragraph describes the Committee's

leasing and payment for labor phones, which was in accordance with the Act and regulations, described in our response to excerpt #1.

(3) The New York Times February 14, 1984

> It is this vast organizational effort, which an aide to Senator John Glenn estimated to be worth more than $1 million in Iowa alone, that has caused other candidates to accuse Mr. Mondale of being in "labor's pocket." Indeed, Mr. Glenn has charged that the Mondale campaign violated Federal Election Commission rules by permitting labor to pay for some of its Iowa campaign headquarters and by using labor phones without full reimbursement; allegations denied by the Mondale staff.

Response:

This excerpt repeats general allegations made by the Glenn campaign without any supporting facts.

(4) The Wall Street Journal February 13, 1984

> DES MOINES, Iowa -- Officials of Sen. John Glenn's presidential campaign contended that former Vice President Walter Mondale violated federal election law in connection with the support he has received from organized labor.
>
> Basically, Mr. White said, labor groups have provided phone banks and office space to the Mondale campaign at costs below fair-market value....

Response:

This excerpt also repeats general allegations made by the Glenn campaign without any supporting facts. Moreover, in the same passage, the article expressly acknowledges that William White, a Glenn aide, "declined to be specific" about his charges. That portion of the article was conveniently omitted by the complainant in submitting his edited version of the story.

(5) The Christian Science Monitor February 14, 1984

> Mondale's own staff in Iowa helped to create all the excitement about labor's help for his campaign.

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Mondale's state coordinator, Joe Trippi, told reporters that the campaign was using union telephones across the state at a bargain price of 10 cents a call. Mondale was also said to be leasing union halls for campaign offices across the state for $269 apiece, a price that the other campaigns said did not reflect the true value.

Mr. Vitali of the Glenn campaign saw the 10-cent-a-call figure in the newspapers and fumed. His own campaign must spend 20 to 50 cents a call to reach voters.

Further, most of the campaigns must put up hefty deposits just to get telephone lines installed. Glenn reportedly had to put up $1,400 just to get four lines installed in Davenport; Alan Cranston had to deposit $1,600 to have six lines opened in the same city; and Hart was required to put down $500 to have one line installed in Iowa City.

Mondale's campaign can just use union telephones that are already in place, and avoid the usual deposit.

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Response:

These excerpts are full of inaccuracies. The Committee's procedure for paying bills for labor facilities and equipment is set forth in Sections II-IV. As reflected in the attached affidavit, the Committee's Iowa coordinator, Joe Trippi, had no responsibility or involvement in billing or paying for the use of any equipment or facilities utilized by the Committee. (Exhibit D)

There are no facts in these excerpts which set forth a violation of the Act. The Committee paid all costs associated with the telephones it installed in its headquarters. As to the question of deposits, the Committee, like the Glenn campaign, has a national phone payment agreement through which all Committee phones are ordered by and billed to the national headquarters. All deposits are handled through a letter of credit secured by a Committee account. (See Exhibit E.) When labor phones were

used, it was pursuant to an agreement to pay the normal and usual charge.

The figure of "$269 apiece" for rent for each headquarters is inaccurate and groundless, as no source is given for this improbable figure. In fact, the Committee arrangements for the lease of office space were made separately in each location in Iowa with different landlords. In most instances, the space was leased from commercial landlords who are not labor organizations. In other locations, space was leased from a labor organization in union halls or other facilities. In all instances, leases were signed with a rent based on the fair market value of the space in that location. There are no facts supporting the allegation that the amounts paid by the Committee were not fair market value. No figures are given which are said to represent fair market value for any different amount than that paid by the Committee in any location in Iowa or New Hampshire.

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(6) The Washington Post December 14, 1983

DES MOINES --

Also last weekend, the American Federation of State, County, and Municipal Employes and several other unions were gearing up phone banks, with a total of 189 phones across the state.

"Once, they're up, we'll be making 57,000 phone call attempts a week," said Will Robinson of AFSCME, Mondale's state labor liaison.

Response:

This excerpt describes labor communication with its members and does not set forth a violation of the Act.

Will Robinson was an employee of AFSCME when he was interviewed by the Post for this article in early December. Mr.

Robinson was subsequently hired by the Committee and paid from the Committee payroll for his services as the Committee's Iowa labor liaison. (Exhibit F)

(7) The Washington Post February 14, 1984

BIRMINGHAM, Ala. --

The state's AFL-CIO unions, with a dues-paying membership of about 190,000, plus about 35,000 laid off members, are mounting their most ambitious and unified effort, their leaders say. It is paralleled by the activity of the 53,000-member Alabama affiliate of the National Educaton Association, the giant teachers union.

Inez Davis and the other 17 callers, unemployed union members being paid for their services, completed 14,000 calls in the first 10 days of the phone bank here, one of 16 such operations statewide that have a total of 116 paid operators and about two dozen volunteers.

Response:

These excerpts describe permissible labor communication with members expressly allowed under the Act. These excerpts contain the only reference to Alabama in the complaint. There is no mention of any arrangements for office space or telephones with the Committee.

(8) U.S. News & World Report October 17, 1983

HOLLYWOOD, Fla. --

In working together during the primaries, AFL-CIO unions for the first time will come into active day-in, day-out contact with each other's members for a common cause -- getting Mondale the nomination.

In mobilizing support for Mondale, for example, one union's telephone canvassers will be allowed for the first time to provide direct help to another union that needs to reach its members.

"Our people may wind up calling on Communications Workers members in some states, and their people may call our members in other states," says Holayter. "That's unheard of. We've never done anything like this before."

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Response :

These excerpts describe permissible labor communications with members and do not describe a violation of the Act.

(9) NBC TV Today Show February 9, 1984

KEN BODE -- This year the Glenn campaign is watching Mondale's spending very closely.

PAUL SHONE -- Glenn's New Hampshire manager -- We have a computer here that keeps track of that. I have a Budget Director here that keeps track of that.

KEN BODE -- Not only does he keep Glenn's budget, but he fiddles around with the Mondale budget as well. It's known, for example that Mondale spent $31,203 on rental cars in Massachusetts. In New Hampshire, $81.40. Tricky bookkeeping?

Then there's the matter of telephones. Labor has endorsed Mondale and is making "independent expenditures" on his behalf.

So, how many phones do they have in the state?

CHARLES CAMPION -- Mondale's New Hampshire Coordinator -- I'm not sure of the exact number to tell you the truth. They have them, but they have phone banks and phones that they have in existing offices.

KEN BODE -- You don't know how many they have?

CHARLES CAMPION I think it's over 100, but I'm not sure exactly the number to tell you the truth.

KEN BODE And who deals with labor for the Mondale campaign?

CHARLES CAMPION Well, Charlie Start is the AFL-CIO employee here. I talk to them and then he and I talk back and forth you know. But he really has their own program going.

KEN BODE The Mondale people leaseback the union phones, thereby saving installation costs.

PAUL SHONE -- Glenn's campaign manager -- On a leaseback arrangement the question is whether they are paying fair market value for the phones which according to the law is what needs to be done or if you are paying for the cost of phones. If you are paying for the cost of phones it is not according to the rules.

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KEN BODE -- How much do you pay them?

CHARLES CAMPION -- I'm not sure, we submit that to Washington, who pays it.

KEN BODE -- Okay, let's check Iowa. Labor claims they have phones in 19 locations, 250 in all. These are labor phones operating in Sioux City.

On Monday night the Mondale campaign leased these phones. They paid 10 cents a call. That saved half the cost over a payphone. It also saves the Mondale folks the cost of installing their own phones. On Tuesday night, while the Mondale people worked downstairs in their offices, labor volunteers took over the phones.

In 12 additional locations including here in Cedar Rapids, Mondale leased headquarter's space from unions.

Response:

These excerpts do not contain any facts as to New Hampshire which set forth a violation of the Act. In New Hampshire, Charles Campion, the Committee's state coordinator, had no responsibility for the billing or payment for labor phones used by the Committee. (Exhibit G)

The facts in this transcript concerning the basis for reimbursement for phones in Iowa are false, as set forth in our response to excerpt #1 and #5. It is also inaccurate that the Committee leased space from unions in 13 locations in Iowa. In fact, space was leased directly from a labor organization in only 9 locations total in both Iowa and New Hampshire.

VIII. Conclusion

The information set forth in this response demonstrates the groundlessness of Complainant's three allegations by showing that (1) the Committee is paying the normal and usual charge for the labor phones which it used; (2) the Committee paid telephone deposits and installation charges on its own phones and is paying

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the normal and usual charge for the labor phones which it leased; and (3) the Committee paid full fair market value for the labor office space it leased.

The Committee performed extensive research on all Commission regulations, opinions and enforcement actions dealing with the use of space and phones owned by other entities on the basis of this research, the Committee then drafted a use agreement and established procedures for reimbursement. Thus, the Committee has taken every possible step to ensure compliance with the Act. There is nothing new or unique about campaign use of phone banks owned by other entities. What is unusual in this case is the special care taken by the Committee to keep track of, pay for and report the use of every such phone bank and office space.

For the foregoing reasons the Committee respectfully requests that the Commission dismiss this complaint as insufficient or, in the alternative, find no reason to believe a violation of the Act has occurred and close its file in this matter.

Respectfully submitted,

David M. Ifshin
General Counsel

Carolyn U. Oliphant

Carolyn U. Oliphant
Deputy General Counsel

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EXHIBIT A

AGREEMENT FOR THE USE OF LABOR ORGANIZATION FACILITIES AND EQUIPMENT

1. The Mondale for President Campaign Committee ("Committee") and _____ ("labor organization") agree this _____ day of _____, 198___ that for the consideration set forth below, the Committee will use the following facilities and equipment of the labor organization on the dates indicated:

2. Dates of use: From _____ to _____

3. Location of facilities to be used: _____

_____

4. Description of facilities and equipment:

_____

_____

5. Other: _____

The labor organization agrees to invoice the Committee for the actual use of the facilities and equipment set forth above in an amount based on the normal and usual rental charge for such facilities and equipment in this community and including any actual telephone charges incurred by the Committee. The invoice will also include billing for the cost of any supplies provided to the Committee. The labor organization will promptly provide its invoice to the Committee, 2201 Wisconsin Avenue, N.W., Washington, D.C. 20007.

The Committee agrees to reimburse the labor organization for use of the labor organization's facilities within a commercially reasonable time.

The undersigned Committee representative is authorized to sign this Agreement on behalf of the Committee.

6. Signed: _____ 10. _____

7. _____ 11. _____
Name Name

8. _____ 12. _____
Position Address

9. _____ Mondale for President
Labor Organization Campaign Committee

13. Dated _____

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EXHIBIT B

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
14	7 hrs	7 hrs	7 hrs	7 hrs	7 hrs	7 hrs	7 hrs	7 hrs	7 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs
15	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs
16	2 hrs	2 hrs	2 hrs	2 hrs															
17	2 hrs	2 hrs	2 hrs	2 hrs															
18	2 hrs	2 hrs	2 hrs	2 hrs															
19	2 hrs	2 hrs	2 hrs	2 hrs															
20																			
21	7 hrs	7 hrs	7 hrs	7 hrs	7 hrs	7 hrs	7 hrs	7 hrs	7 hrs	5 hrs	5 hrs	5 hrs	5 hrs	5 hrs	5 hrs	5 hrs	5 hrs	5 hrs	5 hrs
22	2 hrs	2 hrs	2 hrs	2 hrs	2 hrs	2 hrs	2 hrs	2 hrs	2 hrs	3 hrs	3 hrs	3 hrs	3 hrs	3 hrs	3 hrs	3 hrs	3 hrs	3 hrs	3 hrs
23																			
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27																			
28	9 hrs	9 hrs	9 hrs	9 hrs	9 hrs	9 hrs	9 hrs	9 hrs	9 hrs	9 hrs	9 hrs	9 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs
29																			
30	2 hrs	2 hrs	2 hrs																
31	2	2	2																
	41 hrs	41 hrs	41 hrs	29 hrs	29 hrs	29 hrs	29 hrs	29 hrs	29 hrs	25 hrs	25 hrs	25 hrs	20 hrs	20 hrs	20 hrs	20 hrs	20 hrs	20 hrs	20 hrs

(21)

Quarterly total 520 hrs

Mechanical

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Exhibit C

Affidavit of Scott Davis

Scott Davis, being duly sworn, deposes and says:

I served as Alabama state coordinator for the Mondale for President Committee from October 1, 1983 to March 15, 1984.

To my knowledge, the Mondale for President Committee did not enter into any use agreements with any labor organizations for the use of their facilities in Alabama, nor did we make use of any labor facilities or equipment in Alabama.

Rather, the campaign entered into regular commercial leases with non-labor landlords for the use of office space. The campaign also installed its own phone lines and rented other office equipment from commercial vendors.

Signed _____

Date 4/6/84

The foregoing affidavit was subscribed and sworn to before me this 6th day of April, 1984, by Scott Davis.

Mark O. Leavitt
Notary Public

My Commission expires on September 3, 1985.

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EXHIBIT D

STATEMENT OF CHRISTINE BREWER

P. Christine Brewer, being duly sworn, deposes and says:

I am the Comptroller/Assistant Treasurer of the Mondale for President Committee, Inc. In that capacity, I am responsible for exercising best efforts to insure that all invoices received by the Committee reflect the appropriate amounts due and are paid within a commercially reasonable time.

No Committee field employees have any responsibility for determining the amount of reimbursement or paying any obligations incurred by the Committee.

I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief. 28 U.S.C. Section 1746.

P. Christine Brewer

Executed on April 11, 1984.

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EXHIBIT E

NON-LABOR OFFICE SPACE AND TELEPHONE EXPENDITURES IN IOWA AND NEW HAMPSHIRE [1]

NEW HAMPSHIRE

		MONDALE [5]	GLENN	HART
Phones [2]		$59,723.53	$25,383.40	$16,529.34
	NPPA [3]	31,622.00		
	MCI [4]	7,281.27		
Rent		21,140.87	9,788.68	9,995.09

IOWA

		MONDALE	GLENN	HART
Phones		$66,088.95	$49,228.00	$38,575.13
	NPPA:	46,061.00		
	MCI:	3,367.59		
Rent		23,362.17	15,397.94	5,481.79

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FOOTNOTES

1/ These expenditure amounts were obtained from FEC disclosure reports for all the candidates. In some instances, disclosure was incomplete or it was not apparent whether the expenditures were made in New Hampshire, Iowa, or in other states. Thus, the numbers should be treated as approximate amounts. The expenditures for Mondale should be the most accurate since the FEC report amounts were checked against the Committee's internal records.

The expenditures cover the period from January 1, 1983 through February 29, 1984. The only exception is Hart, whose report filed on March 20, 1984 was not included because of its incompleteness. Thus, Hart's totals reflect the period from January 1, 1983 through January 31, 1984.

2/ Some of the expenditures reflected in the New Hampshire phone category may be inflated since payments reported were made to New England Telephone and include Maine, Massachusetts and Vermont charges. This applies less to Mondale's figures since Committee records were checked to determine the breakdown for New Hampshire.

3/ Mondale has a National Phone Payment Agreement (NPPA) whereby all deposits are covered by a bank line of credit and secured by a Committee account. Apparently, Glenn had a similar agreement and his deposits under the agreement are not reflected in the FEC reports. Thus, Glenn's figures do not represent all of his deposits, however Hart's figures should be complete since Hart did not have any such phone agreement.

4/ Payments to MCI from Glenn and Hart are not included since the breakdown for New Hampshire was not apparent from FEC reports.

5/ A review of Committee records further indicates that $33,278.87 in payments for telephone bills in Iowa was made in March, 1984.

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EXHIBIT F

AFFIDAVIT OF WILL ROBINSON

Will Robinson, being duly sworn, deposes and says:

From August 1, 1982 until December 10, 1983, I was employed by the American Federation of State, County and Municipal Employees (AFSCME). At that time I was hired by Mondale for President Committee, Inc. to serve as Field Director and a liason in Iowa between the Committee and labor. I was interviewed by the Washington Post on December 10, 1983, in my capacity as an AFSCME employee, for the article which appeared on December 14, 1983. The quote from me in the article was a reference to the labor plan to reach its members through 57,000 phone call attempts per week, utilizing labor phone banks which were located throughout the state for this purpose.

The foregoing affidavit was subscribed and sworn to before me this 6 day of April, 1984, by Will Robinson.

Notary Public

My Commission expires on June 15, 1986

Signed William J Robinson

Date April 6, 1984

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(26)

EXHIBIT G

Affidavit of Charles Campion

Charles Campion, being duly sworn, deposes and says:

To the best of my knowledge, written agreements for the use of union office space, telephones and other facilities were prepared by the Mondale for President Campaign, Inc. The payment of any bills pursuant to said agreements was not my responsibility.

The foregoing affidavit was subscribed and sworn to before me this ____ day of April, 1984, by Charles Campion.

V C Lombardo
Notary Public Vincent T. Lombardo ESQ

My Commission ~~expires on~~ has no expiration date.

Charles McCampion
Signed

4/9/84
Date

8504054251 2

(27)

GCC# 2115

Mondale for President
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007
Telephone: 202-625-1600

MONDALE

April 13, 1984

MUR 1641
Kramer

Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, NW
Washington, DC 20463

R: MUR 1641

Dear Mr. Steele:

Attached is an affidavit submitted as an additional exhibit to the response of the Mondale for President Committee, Inc. ("the Committee") filed on April 11, 1984 in MUR 1641.

The affidavit is by Joe Trippi, Iowa State Co-ordinator for the Committee and should supplement Exhibit D, the statement of Christine Brewer, referred to on page 14 of the Committee's response. We were unable to submit Mr. Trippi's affidavit with the Committee's response on April 11, 1984, since he was unavailable.

Sincerely,

Carolyn U. Oliphant

Carolyn U. Oliphant
Deputy General Counsel

Attachment

APR 13 P 3:04

8504054251 3

(28)

Paid for by Mondale for President, Inc.

EXHIBIT B

Affidavit of Joe Trippi

Joe Trippi, being duly sworn, deposes and says:

During the period between January 15, 1984, and February 20, 1984, I was the Iowa state coordinator for the Mondale for President campaign.

It is my understanding that the campaign made use of union office space, telephones, and other facilities in Iowa pursuant to use agreements. Under these agreements, the unions who provided such facilities have agreed to invoice the campaign at the normal and usual charge for the use of all facilities, and the campaign will reimburse the unions in the appropriate amount within a commercially reasonable time.

During the course of the Iowa campaign, various newspapers (in articles attached to respondent's complaint) reported that I stated that the campaign was paying 10 cents per phone call for the use of union telephones. That figure was not intended to represent a fixed amount, but simply meant that we are paying whatever the normal charge is for phone calls.

It is my further understanding that the campaign procedure is for the national headquarters in Washington, D.C. to receive the invoices that are prepared by the unions for the use of phones and other facilities. The national headquarters is then responsible for payment. As Iowa state coordinator, my responsibility was to ensure that no union facilities were used by the campaign without an understanding that there would be full reimbursement. I had no responsibility either for the payment of these bills or for the calculation of the appropriate amounts to be billed.

Signed Joe Trippi

The foregoing affidavit was subscribed and sworn to before me this ____ day of April, 1984, by Joe Trippi.

Harriet E Gaige
Notary Public

My Commission expires on August, 1986.

29

8504251

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

EXECUTIVE COUNCIL

LANE KIRKLAND PRESIDENT THOMAS R. DONAHUE SECRETARY-TREASURER

John H. Lyons
S. Frank Raftery
Glenn E. Watts
Angelo Fosco
Lloyd McBride
Wm. W. Winpisinger
Wayne E. Glenn
John J. Sweeney
Barbara Hutchinson
Gerald W. McEntee
Patrick J. Campbell

Thomas W. Gleason
Murray H. Finley
Sol C. Chaikin
Charles H. Pillard
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William H. Wynn
Robert F. Goss
Frank Drozak
Richard I. Kilroy
William H. Bywater
Kenneth J. Brown

Frederick O'Neal
Albert Shanker
Edward T. Hanley
J. C. Turner
Alvin E. Heaps
John DeConcini
Joyce D. Miller
James E. Hatfield
Vincent R. Sombrotto
Marvin J. Boede
Owen Bieber

MUR 1641
Stamp

11 P1:32

Charles N. Steele
General Counsel
Federal Election Commission
1325 K St., N.W.
Washington, D.C. 20463

Re: FEC MUR 1641

Dear Mr. Steele:

This letter constitutes the response of the American Federation of Labor and Congress of Industrial Organizations ("AFL-CIO"), the New Hampshire AFL-CIO, the Iowa Federation of Labor, AFL-CIO ("Iowa AFL-CIO") and the Alabama Labor Council, AFL-CIO ("Alabama AFL-CIO") (hereinafter "respondents") to your letter dated March 9, 1984, stating that the Commission has received a complaint alleging that respondents had violated the Federal Election Campaign Act of 1971, as amended ("the Act").

The complaint alleges that respondents have violated §441b of the Act by "providing Walter Mondale's election campaign with goods and services at below-market rates". This allegation is based entirely on unsubstantiated information gleaned from newspaper articles and television news reports. Even if these news accounts are taken as true, they do not describe any violation of the Act by any of the above-named respondents.*/ The complaint should therefore be dismissed for failing to meet the requirements of 11 C.F.R. §111.4(d). Should the complaint be found to satisfy the technical requirements of §111.4, for the reasons set forth below, the Commission should take no further action in this matter:

---

*/ One of the newspaper articles attached to the complaint, Exhibit 8, quotes William Holayter, Director the Legislative and Political Action Department of the International Association of Machinists and Aerospace Workers as saying that in some states members of the Machinists might call members of the Communications Workers and vice versa in connection with the primary process. What Mr. Holyater was suggesting was that members of the Machinists and other AFL-CIO affiliated unions might be calling each other while working as volunteers on AFL-CIO phone banks calling all AFL-CIO members and their families. See Affidavit of William Holayter, Attachment E.

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1. Respondent AFL-CIO has not furnished any goods or services to the Mondale For President Committee nor has the AFL-CIO rented or otherwise permitted the use of any of its facilities or equipment, including telephones, by the Mondale For President Committee. See Affidavit of John Perkins, Attachment A.

2. Respondent Iowa AFL-CIO has not furnished any goods or services to the Mondale For President Committee nor has the Iowa AFL-CIO permitted its facilities or equipment, including telephones, to be rented or used by the Mondale For President Committee. See Affidavit of James Wengert, Attachment B.

3. Respondent Alabama AFL-CIO has not furnished any goods or services to the Mondale For President Committee nor has the Alabama AFL-CIO permitted its facilities or equipment, including telephones, to be rented or used by the Mondale For President Committee. See Affidavit of A.G. Trammel, Attachment C.

4. Respondent New Hampshire AFL-CIO has not furnished any goods or services to the Mondale For President Committee other than the use certain of its telephones for which use the New Hampshire AFL-CIO has billed the Mondale For President Commitee in an amount which reflects the usual and normal rental charge for such facilities within the meaning of 11 C.F.R. §100.7(a)(1)(iii)(B).

The facts concerning the Mondale For President Committee's use of certain of the New Hampshire AFL-CIO's telephones are as follows. In connection with its program of making internal communications to AFL-CIO members and their families related to New Hampshire's Democratic presidential primary, the New Hampshire AFL-CIO installed nine telephones in the offices of Local 490 of the International Brotherhood of Electrical Workers, 16 Pierce Street, Dover, New Hampshire, and two telephones in the offices of Local 5173 of the United Steelworkers of America, 358 South Main Street, Laconia, New Hampshire.

In Dover, the New Hampshire AFL-CIO agreed to permit the Mondale For President Campaign, which was leasing space in the same offices, to use its nine telephones when those telephones were not being used by the New Hampshire AFL-CIO with the understanding that the Mondale For President Committee would reimburse the New Hampshire AFL-CIO for its use of those phones based on the normal and usual commercial rate.

In Laconia, the New Hampshire AFL-CIO allowed the Mondale For President Campaign to use one of its phones for six hours on the day of the New Hampshire democratic primary, February 28, 1984, with the understanding that the Mondale For President Committee would reimburse the organization for its use of that phone at the usual and normal commercial rate. See attached Affidavit of Charles Stott, Attachment D.

In each instance, the New Hampshire AFL-CIO has already billed the Mondale For President Committee for its share of the telephone bills for the above-described phones based on the Committee's actual use of those phones. Copies of

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the invoices sent to the Mondale For President Committee are attached hereto. Each invoice is accompanied by a detailed explanation of the manner in which the New Hampshire AFL-CIO calculated the Mondale For President Committee's share of the phone bill(s) for the phones used by the Committee. See Attachment F.

For the above-stated reasons, respondents respectfully request that the Commission take no further action in this matter and that the Commission close the file.

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for respondents
AFL-CIO, New Hampshire AFL-CIO,
Iowa Federation of Labor, AFL-CIO and
Alabama Labor Council, AFL-CIO

Enclosures

8504054251 7

Attachment A

COPE

AFL-CIO

Committee on Political Education

LANE KIRKLAND, Chairman THOMAS R. DONAHUE, Secretary-Treasurer JOHN PERKINS, Director

815 16TH STREET, N.W. ★ WASHINGTON, D.C. 20006 ★ (202) 637-5101

District of Columbia s.s.

AFFIDAVIT OF JOHN PERKINS

John Perkins, being duly sworn, deposes and says:

1. I am the Director of the AFL-CIO Committee on Political Education and have held that position at all times relevant to the period covered by the complaint in FEC MUR 1641.

2. The AFL-CIO has not furnished any goods or services to the Mondale for President Committee nor has the AFL-CIO permitted the Mondale For President Committee to use any of its facilities or equipment, including its telephones.

3. The foregoing is true and correct to the best of my knowledge.

John Perkins

John Perkins, Director
AFL-CIO COPE

DISTRICT OF COLUMBIA

Subscribed and sworn to before
me this 9TH day of April, 1984.

Howard L. Holman
NOTARY PUBLIC

My Commission Expires 3/28/89

33

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Attachment B

IOWA

IFL

FEDERATION OF LABOR, AFL-CIO

EXECUTIVE COUNCIL
JAMES J. WENGERT, President
MARK L. SMITH, Secretary-Treasurer
DONALD P. ROWEN, Executive Vice President
WILLIAM F. FENTON, I.A.M. & A.W.
LLOYD FREILINGER, A.F.G.M.
STEVE ELLIOTT, A.F.S.C.M.E.
LEO E. RUTH, A.B.C.W.I.U.
PAT MARSHALL, I.B.E.W.
GENE REDMON, U.F.C.W.
JERRY CHAPIN, U.R.W.
KEN RAINS, C.W.A.
RON DISKEY, A.F.S.C.M.E.

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AFFIDAVIT OF JAMES J. WENGERT

James J. Wengert, being duly sworn, deposes and says:

1. I am the President of the Iowa Federation of Labor, AFL-CIO, and have held that position at all times relevant to the period covered by the complaint in FEC MUR 1641.

2. The Iowa Federation of Labor, AFL-CIO has not furnished any goods or services to the Mondale for President Committee, nor has the Iowa Federation of Labor, AFL-CIO ever permitted any of its facilities or equipment, including its telephones, to be used by the Mondale for President Committee.

3. The foregoing is true and correct to the best of my knowledge.

James J. Wengert

James J. Wengert, President

Subscribed and sworn to before me this 10th day of April, 1984.

Billie L. Ore

Notary Public in and for the state of Iowa.

(34)

2000 Walker Street Suite A • Des Moines Iowa 50317 • 515 262-9571

Alabama LABOR COUNCIL, AFL-CIO
231 WEST VALLEY AVENUE • (205) 942-5260
BIRMINGHAM, ALABAMA 35209

A. G. TRAMMELL, PRESIDENT
FRANK VICTORY, SECRETARY-TREASURER
JAMES ALBRIGHT, EXECUTIVE VICE-PRESIDENT

April 6, 1984

State of Alabama s.s.

AFFIDAVIT OF A. G. TRAMMELL

A. G. Trammell, being duly sworn, deposes and says:

1. I am President of the Alabama Labor Council, AFL-CIO, and have held that office at all times relevant to the period covered by the complaint in FEC MUR 1641.

2. The Alabama Labor Council, AFL-CIO, has not furnished any goods or services to the Mondale for President Committee nor has the Alabama Labor Council, AFL-CIO, ever permitted any of its facilities or equipment, including its telephones, to be used by the Mondale for President Committee.

3. The foregoing is true and correct to the best of my knowledge.

A.G. Trammell

A. G. Trammell, President

Subscribed and sworn to before me this 6th day of April, 1984.

Mary W. Montgomery
Notary Public

35

OPEIU-18

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AFFIDAVIT OF CHARLES E. STOTT

State of Pennsylvania s.s.

Charles E. Stott, being duly sworn, deposes and says:

1. I am an AFL-CIO Field Representative for AFL-CIO Region VIII which includes the State of New Hampshire.

2. From October 10, 1983 until February 28, 1984, I was assigned to coordinate the New Hampshire AFL-CIO's political education and voter registration/get-out-the-vote activities aimed at AFL-CIO members and their families in connection with the New Hampshire Democratic presidential primary held on February 28, 1984.

3. In connection with its program of making internal communications relating to the New Hampshire primary to members and their families, the New Hampshire AFL-CIO installed and paid for nine telephones located in the offices of IBEW Local 490, Dover, New Hampshire, and two telephones located in the offices of Steelworkers Local 5173 in Laconia, New Hampshire.

4. In Dover, the New Hampshire AFL-CIO agreed to permit the Mondale for President Campaign, which was leasing space in the same offices, to use its nine telephones when those telephones were not being used by the AFL-CIO with the understanding that the Mondale for President Committee would reimburse the New Hampshire AFL-CIO at the usual and normal commercial rate for the Committee's actual use of those phones. The Mondale Committee and the New Hampshire AFL-CIO each kept separate records of how many hours a day each organization used the phones.

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5. In Laconia, the New Hampshire AFL-CIO permitted one of its two telephones to be used by the Mondale for President Campaign for six hours on election day, February 28, 1984, on the understanding that the Mondale for President Committee would reimburse the New Hampshire AFL-CIO at the usual and normal commercial rate for the Committee's actual use of that phone.

6. With the exception of the above described telephones in Dover and Laconia, the New Hampshire AFL-CIO did not permit any of its facilities or equipment, including telephones, to be used by the Mondale for President Committee nor did the New Hampshire AFL-CIO provide any goods or services to that Committee.

7. The foregoing is true and correct to the best of my knowledge.

Charles E. Stott

Charles E. Stott
AFL-CIO Field Representative

Subscribed and sworn to before me this 9th day of April 1984.

Barbara J. Kitner

BARBARA J. KITNER, NOTARY PUBLIC
GREEN TREE BORO, ALLEGHENY COUNTY
MY COMMISSION EXPIRES SEPT. 17, 1984
Member, Pennsylvania Association of Notaries

8504054252 2

Attachment E

AFFIDAVIT OF WILLIAM J. HOLAYTER

District of Columbia s.s.

William J. Holayter, being duly sworn, deposes and says:

1. I am the Director of the Legislative and Political Action Department of the International Association of Machinists and Aerospace Workers and have held that position at all times relevant to the period covered in FEC MUR 1641.

2. Following the AFL-CIO's endorsement of Walter Mondale, I was interviewed by a reporter from U.S. News & World Report about the impact of that endorsement. During the interview, I told the reporter that as a result of the AFL-CIO endorsement: "our people may wind up calling on Communications Workers members in some states and their people may call on our members in other states." What I meant by that statement was that I.A.M. members working as volunteers on AFL-CIO phone banks would call members of other AFL-CIO affiliated unions, including members of the Communications Workers, and vice versa, since those phone banks would be calling all AFL-CIO members and their families.

3. The foregoing is true and correct to the best of my knowledge.

William J. Holayter
Director, Legislative and
Political Action Department

Subscribed and sworn to before me this tenth day of April, 1984

James H. Thomas, Jr.
Notary Public D.C.
My Commission Expires 1-1-89

38

8504054523

Attachment F

NEW HAMPSHIRE AFL-CIO

President
HARLAND EATON
366 Huse Rd
Manchester, NH 03103
603-623-1416

Executive Vice President
MARK S MACKENZIE
465 Beacon St
Manchester, NH 03103
603-668-7863

Secretary-Treasurer
SAVERIO M GIAMBALVO
P O Box 1305
Portsmouth NH 03801
603-431-7155

COPE
JUDITH CAMIRE, V I P Dir
366 Huse Rd
Manchester, NH 03103
603-669-5243

April 9, 1984

VICE PRESIDENTS
Gerald K Aikens
James Anderson
Alden G Boardman
James G Casey
Kenneth Clarke
Peter Cutting
Joseph M Day
Edmond Desautel
Fred Eliot
Peggy Gagnon
James Gray
E Vincent Hall
Tom Marsh
John Mendolusky
Lorraine Palmer
Dick Payne
Ben E Powers
Marcia Stott

Ms. Christine Brewer
Finance Division
Mondale For President Committee
2201 Wisconsin Ave.,N.W.
Washington, D.C. 20007

Dear Ms. Brewer:

Enclosed are our invoices for the Mondale For President Committee's use of the New Hampshire AFL-CIO's telephones in Dover, New Hampshire, and Laconia, New Hampshire.

Attached to each invoice is a detailed explanation of how the Committee's share of the telephone charges was calculated. Please contact me at the above number if you have any questions about the invoices or our allocation of the telephone charges.

Prompt payment of the amounts stated in the invoices would be greatly appreciated.

Sincerely,

Saverio M. Giambalvo
Secretary-Treasurer

8504025

NEW HAMPSHIRE AFL-CIO

President
HARLAND EATON
366 Huse Rd
Manchester, NH 03103
603-623-1418

Executive Vice President
MARK S MACKENZIE
465 Beacon St
Manchester, NH 03103
603-668-7863

Secretary-Treasurer
SAVERIO M GIAMBALVO
P O Box 1305
Portsmouth, NH 03801
603-431-7155

COPE
JUDITH CAMIRE, V I P Dir
366 Huse Rd
Manchester, NH 03103
603-669-5243

April 9, 1984

INVOICE

VICE PRESIDENTS
Gerald K Ahern
James Anderson
Albert G Boardman
James G Casey
Kenneth Clarke
Alan Cutting
Joseph M Day
Edmond Desautel
Fred Eliot
Roger Gagnon
James Gray
E Vincent Hall
Tom Marsh
John Mendolusky
Lawrence Palmer
Paul Payne
Ernest Powers
Barbara Stein

For Mondale For President Committee's use of New Hampshire AFL-CIO telephones located in Dover, New Hampshire, over period of 12/7/83 through 2/28/84.

Total Charge to Mondale For President Committee = $3,981.36

Please remit to New Hampshire AFL-CIO, P. O. Box 1305, Portsmouth, New Hampshire, 03801. Attention: Saverio M. Giambalvo, Secretary-Treasurer

Explanation and Allocation of Charges - Dover, New Hampshire Telephones

Total use figures for period 12/7/83 through 2/28/84

Mondale For President operator hours = 3227.5

New Hampshire AFL-CIO operator hours = 953.5

Total operator hours = 4181

Percentages based on actual use figures

Mondale For President Committee $\frac{3227.5}{4181}$ = 77%

New Hampshire AFL-CIO $\frac{953.5}{4181}$ = 23%

Allocation of Phone Bill Charges for period of 12/7/83 through 2/28/84

Monthly service charges:

Total monthly service charges = $1227.67
77% of 1227.67 = $945.31 Mondale For President Committee share

23% of 1227.67 = $282.36 New Hampshire AFL-CIO share

Installation Costs

Total installation costs = $328.55
77% of 328.55 = $252.98 Mondale For President Committee share

23% of 328.55 = $75.57 New Hampshire AFL-CIO share

(40)

For Mondale For President Committee's use of New Hampshires AFL-CIO telephones located in Dover, New Hampshire over period of 13/7/83 through 2/28/84.

Tax

Total tax = $92.45

77% of $92.45 = $71.19 Mondale For President Committee share

23% of $92.45 = $21.26 New Hampshire AFL-CIO share

AT&T information charges

Total charge = $42.27

77% of $42.27 = $32.55 Mondale For President Committee share

23% of $42.27 = $ 9.72 New Hampshire AFL-CIO share

AT&T communication charges (long distance)

Total charge = $832.66 100% billed to Mondale For President Committee */

Itemized calls charges (toll calls - New England Bell)

total charges = $1,846.72 100% billed to Mondale for President Committee**/

Total charges billed to Mondale For President Committee = $3,981.36

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*/ New Hampshire AFL-CIO operators were instructed not to make any long distance calls. Therefore all long distance charges are being billed to Mondale For President Committee

**/New Hampshire AFL-CIO operators were instructed not to make any toll calls. Therefore all toll call charges are being billed to Mondale For President Committee

NEW HAMPSHIRE AFL-CIO

President
HARLAND EATON
365 Huse Rd
Manchester, NH 03103
603-623-1418

Executive Vice President
MARK S MACKENZIE
465 Beacon St
Manchester, NH 03103
603-668-7863

Secretary-Treasurer
SAVERIO M GIAMBALVO
P.O Box 1305
Portsmouth, NH 03801
603-431-7155

COPE
JUDITH CAMIRE, V I P Dir.
366 Huse Rd
Manchester, NH 03103
603-669-5243

April 9, 1984

INVOICE

For Mondale For President Committee's use of New Hampshire AFL-CIO telephone in Laconia, New Hampshire, for six hours on February 28, 1984:

Total Charge to Mondale For President Committee = $ 5.28

Please remit to New Hampshire AFL-CIO, P.O. Box 1305, Portsmouth, N.H. 03801
Attention: Saverio M. Giambalvo, Secretary-Treasurer

Explanation and Allocation of charges- Laconia Telephone

Total bill for telephone used by Mondale For President on 2/28/84: $38.75

Breakdown of phone charges:

Monthly service charge = $32.12

Tax $ 1.13

Itemized charges(toll calls) $4.38

AT&T charges = none

Allocation of charges:

$32.12 monthly service charge ÷ 28 = $1.14 daily service charge

$ 1.14 x .75(six out of 8 hours of use) = $.86 Mondale For President share of monthly service charge

$ 1.13 tax divided by 28 = $.04 Mondale For President share of tax

$ 4.38 = toll calls made on 2/28/84. 100% charged to Mondale for President Committee */

Total charge to Mondale For President Committee = $5.28

*/ New Hampshire AFL-CIO operators were instructed to make no toll calls or long distance calls.

(42)

GCC# 2122

nea
NATIONAL EDUCATION ASSOCIATION • 1201 16th St., N.W., Washington, D C 20036 • (202) 822-7035
MARY HATWOOD FUTRELL, President
KEITH GEIGER, Vice President
ROXANNE E. BRADSHAW, Secretary-Treasurer
DON CAMERON, Executive Director

LEGAL SERVICES
OFFICE OF GENERAL COUNSEL

April 13, 1984

MUR 1641
Kramer

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

APR 13 P3:23

Re: MUR 1641

Dear Mr. Steele:

Attached is the response of the National Education Association, the Alabama Education Association, the Iowa State Education Association, and NEA-New Hampshire to the above MUR. As you will note, the response includes affidavits from the Executive Director of the Iowa State Education Association and NEA-New Hampshire. Because of certain unanticipated logistical problems, we have not yet received the executed affidavits and, in order to meet the filing deadline, are submitting unexecuted copies. As soon as we receive the executed affidavits, which should be within the next few days, we will hand deliver them to you. We apologize for any inconvenience that this may cause you.

Sincerely,

Robert H. Chanin
General Counsel

RHC:gm
Attachments

(43)

8504042528

GCC#2122

nea
NATIONAL EDUCATION ASSOCIATION • 1201 16th St., N.W., Washington, D C 20036 • (202) 822-7035
MARY HATWOOD FUTRELL, President
KEITH GEIGER, Vice President
ROXANNE E. BRADSHAW, Secretary-Treasurer
DON CAMERON, Executive Director

LEGAL SERVICES
OFFICE OF GENERAL COUNSEL

April 13, 1984

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

Re: MUR 1641

Dear Mr. Steele:

On March 9, 1984, you wrote to the National Education Association ("NEA") regarding the above MUR. This MUR is based upon a complaint filed by Ralph Martin Hettinga, Jr, in which he alleges that various organizations, including NEA and three of its state affiliates, have "engaged in flagrant violations of Section 441b of the Federal Election Campaign Act, as Amended, by using union treasury funds to subsidize Walter Mondale's Presidential campaign with cut-rate goods and services." Complaint at 2. We have been authorized to represent NEA and the three state affiliates in question -- i.e., the Alabama Education Association ("AEA"), the Iowa State Education Association ("ISEA") and NEA-New Hampshire ("NH") -- in connection with this MUR, and this response is submitted on behalf of the four associations.

A. The Requirements for a Procedurally Sufficient Complaint

This complaint initially was filed by Mr. Hettinga on February 17, 1984. On February 21, 1984, you notified Mr. Hettinga that because his "correspondence does not meet these requirements [of the Federal Election Campaign Act and the Commission's Regulations], the Commission can take no action at this time to investigate this matter." You then outlined the nature of these requirements and provided Mr. Hettinga with certain materials "should [he] wish to file a legally sufficient complaint with the Commission."

On March 5, 1984, Mr. Hettinga responded to your February 21 letter. Although it was his opinion that you were

APR 13 P 3:

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using "nitpicking technicalities as a pretext to delay investigating the matter", he did re-file the complaint, this time using his full legal name and a different form of affirmation. Apparently concluding that the complaint now was procedurally sufficient, you assigned it an MUR and on March 9, 1984, notified respondents. Although the March 5 complaint does satisfy the requirements of 11 CFR §111.4(b)(1) (i.e., it "provide[s] the full name" of the complainant) and 11 CFR §111.4(b)(2) (i.e., it is "sworn to"), we believe that it still fails to meet the requirements for a procedurally sufficient complaint as set forth in the Commission's Regulations.

The Commission's Regulations require that a complaint "contain a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction." 11 CFR §111.4(d)(3). In his March 5 letter, Mr. Hettinga contends that the "facts of the alleged violations were clearly and concisely recited on pages 4 through 10 of the complaint", but specificity is found only in a single paragraph on page 10 of the complaint. In this paragraph, Mr. Hettinga contends:

> Mondale and his election committee (1) are paying ten cents apiece for calls costing other candidates twenty to fifty cents apiece, (2) are not having to pay deposits and installation charges which other candidates have to pay, and (3) are not paying full fair market value for office space.*/

The Commission's Regulations also require that:

> Statements which are not based upon personal knowledge should be accompanied by an identification of the source of information which gives rise to the complainants belief in the truth of such statements.

11 CFR §111.4(d)(2). Mr. Hettinga does not assert that he has personal knowledge of any of the alleged statutory violations, and, in response to this requirement, refers to various media reports -- specifically, eight newspaper articles and the purported transcript of a segment of the Today Show.

The Commission has "expressed concern as to whether or not complaints based on newspaper articles are proper complaints. . . because of the possibility of inaccuracies

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*/ The complaint characterizes these activities as both a violation of the Act and "a crass violation of the First Amendment rights of working men and women." It is unnecessary for present purposes to address this latter allegation inasmuch as it is outside the Commission's jurisdiction.

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in news accounts and because the news accounts would not be within a complainant's personal knowledge." Commission Memorandum No. 663. Although not ruling that a complaint based solely upon media reports is per se procedurally insufficient, the Commission has made it clear that in order for such a complaint to be processed, "the news article on which the complaint is based must be substantive in its facts. . . ." Id.

It scarcely warrants extended discussion to demonstrate that the media reports upon which the instant complaint is based fail to pass muster under this standard. They do not provide dates, places or any other specifics vis-a-vis the alleged statutory violations, but consist essentially of generalized, undocumented, accusations by spokespersons for candidates who are or were in competition with Vice-President Mondale. Mr. Hettinga provides no other corroborative evidence, and fails to set forth any basis whatsoever for his apparent "belief in the truth of such statements." 11 CFR §111.4(d)(2).

In its response to this MUR, respondent Mondale for President Committee, Inc. ("Committee") presents a detailed analysis of the media reports relied upon by Mr. Hettinga, and observes that "[i]t is precisely because of these types of general accusations and inaccurate factual assertions that the Commission adopted a policy of careful scrutiny of complaints based solely on newspaper articles." Response of Committee at p. 10. We will not at this juncture burden you with a duplicative analysis. Suffice it to say that we concur completely in the Committee's conclusion that these reports "provide an insufficient basis for the initiation of an enforcement action", id. at p. 11, and join in its request that the complaint be dismissed as procedurally insufficient.

B. The Alleged Statutory Violations

Assuming, arguendo, that the Commission does not dismiss the complaint as procedurally insufficient, it should find no reason to believe that the complaint sets forth a violation of the Act by any of our clients.

We request at the outset that the complaint be summarily dismissed as to two of our clients -- specifically, NEA and AEA. The only reference to NEA activity in the media reports relied upon by Mr. Hettinga appears in the February 10, 1984 article from the Washington Post (Exhibit 1 to the complaint). After stating that in Iowa "[t]he United Food and Commercial Union picks up the rest of the tab [for Mondale headquarters] and rents the phones", the article observes:

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> Mondale, the front-runner for the Democratic presidential nomination, was endorsed by the AFL-CIO and National Education Association and has similar cost-sharing arrangements with the labor groups for phones and headquarters space in 19 Iowa cities. (emphasis added)

To the extent the underscored reference to "the labor groups" in the above excerpt is intended to include NEA, the allegation is totally without foundation. Inasmuch as NEA has not at any time relevant to the present inquiry owned, leased or otherwise occupied any facilities or telephones in Iowa, it obviously could not have entered into "cost-sharing arrangements . . . for phones and headquarters space" with the Committee.

Although there is no express or even implied accusation in any of the media reports that NEA has entered into a cost-sharing arrangement with the Committee in Alabama or New Hampshire, we note in the interest of completeness that NEA has not at any time relevant to the present inquiry owned, leased or otherwise occupied any facilities or telephones in those states -- again conclusively negating the possibility of such an arrangement.

Nor can NEA properly be named as a respondent in this MUR simply because it is the national parent organization of AEA, ISEA and NH. These latter organizations are separate autonomous entities, each with its own governing documents, budget, staff, property, etc. The affiliation relationship does not give NEA control of or make it accountable under the Act for the actions of AEA, ISEA or NH.

AEA likewise is mentioned in only one of the media reports relied upon by Mr. Hettinga. The February 14, 1984 article from the Washington Post (Exhibit 7) refers to "the activity [in support of Mondale] of the 53,000-member Alabama affiliate of the NEA . . .", and indicates that "Joe Reed, the influential black leader of the Alabama Education Association and head of the black Alabama Democratic Conference has fought to hold the line for Mondale among blacks." Although these excerpts make no mention of the use by the Committee of any AEA facilities or telephones -- and despite our reluctance to respond to "nonaccusations" -- we offer the following dispositive fact: AEA has not at any time relevant to the present inquiry entered into any arrangement whatsoever with the Committee for the use of AEA facilities or telephones.

We see no need for further response on behalf of NEA or AEA: in light of the above, it is abundantly clear that no action should be taken against them in connection with this MUR.

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Our remaining clients -- ISEA and NH -- did enter into arrangements with the Committee for the use of facilities and telephones, but these arrangements did not in any way violate the Act or the Commission's Regulations. We begin our analysis with the fact that the Commission's Regulations do not in any sense prohibit a union from allowing a presidential campaign committee to utilize its facilities and telephones. To the contrary, such use is specifically authorized, provided the union is reimbursed "within a commercially reasonably time in the amount of the normal and usual rental charge . . . for the use. . . ." 11 CFR §114.9(d). The phrase "normal and usual rental charge" is defined in the Regulations to mean "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution." Id. at §100.7(a)(iii)(B). With specific regard to telephones, the Commission gave the phrase further definition in Advisory Opinion 1978-34, stating that the "normal and usual rental charge" is:

> [T]he cost . . . of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning.

In the Committee's response to this MUR, it discusses in detail the arrangements that have been made for the use of union facilities and telephones, and demonstrates that these arrangements are in compliance with applicable Commission regulations. Inasmuch as the Committee's presentation is cast in general terms, and makes no specific reference to the arrangements with ISEA and NH, we have by way of supplementation attached two affidavits to this letter. The first affidavit is by Fred R. Comer, Executive Director of ISEA, and sets forth the circumstances surrounding the Committee's use of ISEA facilities and telephones; the second affidavit is by Melvin E. Myler, Executive Director of NH, and sets forth the counterpart circumstances in NH. These affidavits affirm that:

1. The Committee already has been or "within a commercially reasonable time" will be billed for the use of ISEA and NH facilities and telephones; and

2. These bills have been or will be "in the amount of the normal and usual rental charge", computed in accordance with applicable Commission Regulations.

On the basis of the information set forth in this response, we respectfully request that the Commission dismiss

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Mr. Hettinga's March 5, 1984 complaint as procedurally insufficient or, in the alternative, find no reason to believe that the complaint sets forth a possible violation of ~~the~~ Act by NEA, AEA, ISEA or NH. In either event, the Commission should close the file on this MUR as to our clients.

Sincerely,

Robert H. Chanin
General Counsel

RHG:gm
Attachments

cc: Ken Melley, National Education Association
Paul Hubbert, Alabama Education Association
Fred Comer, Iowa State Education Association
Mel Myler, NEA-New Hampshire

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GCC#2128

Complaint Filed by.	
RALPH MARTIN HETTINGA, JR.	MUR 1641

State of Iowa)
)ss.:
County of Polk)

4 APR 13 P3:23

AFFIDAVIT OF FRED R. COMER

FRED R. COMER, being duly sworn, deposes and says:

1. I am the Executive Director of the Iowa State Education Association ("ISEA"). In this capacity, I have primary responsibility for the day-to-day operation of ISEA, including the utilization of its facilities and equipment.

2. ISEA's principal place of business is 4025 Tonawanda Drive, Des Moines, Iowa. ISEA owns this building. ISEA also rents facilities at various other locations throughout the state, including Red Oak and Algona.

3. In December 1983, a representative of the Mondale for President Campaign Committee, Inc. ("Committee") asked George Brown, an ISEA staff member, whether it could use the telephones at ISEA's Des Moines building and at its Red Oak and Algona facilities.

4. Brown discussed this request with me. I authorized him to enter into an agreement with the Committee pursuant to which:

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(a) The Committee could use certain telephones in the three ISEA facilities from January 11, 1984, through February 21, 1984, the day after the Iowa Caucuses; and

(b) the Committee would reimburse ISEA for the cost of telephone calls made and, in addition, pay ISEA an appropriate rental charge for the use of its facilities and equipment.

A verbal agreement to this effect was entered into by Brown and the Committee in late December 1983.

5. On January 31, 1984, I entered into a written agreement with the Committee that reflected the terms of the aforementioned verbal agreement. A copy of the January 31, 1984 agreement is attached to this affdiavit.

6. The Committee used certain telephones in ISEA's Red Oak and Algona facilities from the beginning of February, 1984, through February 20, 1984. In connection with the telephoning, the Committee used two tables and five chairs and occupied 40 square feet of space in the Red Oak facility, and used one table and four chairs and occupied 25 square feet of space in the Algona facility.

7. The Committee used certain telephones in ISEA's Des Moines building for two days for a "telephone blitz." In connection with the telephoning, the Committee occupied one wing of the building and used the furniture in that wing.

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8. ISEA provided heat and electricity during the hours that the Committee used ISEA's Des Moines building and its Red Oak and Algona facilities.

9. ISEA does not have a regular billing procedure and handles such matters on an ad hoc basis. In the instant situation, ISEA made a business judgment not to bill the Committee on an interim basis, but to send a single bill when it knew the total amount owed.

10. ISEA received its February telephone and utility bills several weeks ago and now is preparing a bill to send to the Committee. In this process, the following calculations are being used:

a. For Telephones: The actual cost for long-distance calls made by the Committee and a pro-rata share of the telephone and equipment charges paid by ISEA based on the extent of Committee use;

b. For ISEA's Red Oak and Algona Facilities: A pro-rata share of the rent and utilities paid by ISEA based on the extent of Committee use, and a total of $30 for the use of the furniture at both of the facilities; and

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c. For ISEA's Des Moines Building: A charge of $50 per day for each of the two days that the Committee used the wing of the building, including utilities and furniture. The ISEA's Des Moines building is on the national register of historic landmarks, and $50 per day is the amount regularly charged by ISEA for its use, regardless of the amount of space used. I believe that a $50 per day charge for the wing used by the Committee is higher than the usual and normal rental charge for comparable space in the Des Moines area.

ISEA will send the bill to the Committee as soon as it is completed.

FRED R. COMER

Sworn to before me this
___ day of_____, 1984.

NOTARY PUBLIC

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AGREEMENT FOR THE USE OF LABOR ORGANIZATION FACILITIES AND EQUIPMENT

1. The Mondale for President Campaign Committee ("Committee") and Iowa State Education Association ("labor organization") agree this 31st day of January, 1984 that for the consideration set forth below, the Committee will use the following faciilities and equipment of the labor organization on the dates indicated:

2. Dates of use: From January 11, 1984 to February 21, 1984

3. Location of facilities to be used: 4025 Tonawanda Dr., Des Moines; 1110 Broadway, Red Oak; 2½ East State, Algona;

4. Description of facilities and equipment:

Telephones and supplies incidental to telephone use.

5. Other:

The labor organization agrees to invoice the Committee for the actual use of the facilities and equipment set forth above in an amount based on the normal and usual rental charge for such facilities and equipment in this community and including any actual telephone charges incurred by the Committee. The invoice will also include billing for the cost of any supplies provided to the Committee. The labor organization will promptly provide its invoice to the Committee, 2201 Wisconsin Avenue, N.W., Washington, D.C. 20007.

The Committee agrees to reimburse the labor organization for use of the labor organization's facilities within a commercially reasonable time.

The undersigned Committee representative is authorized to sign this Agreement on behalf of the Committee.

6. Signed: Fred R Comer

7. Fred R. Comer
Name

8. Executive Director
Position

9. Iowa State Education Association
Labor Organization

10.

11.
Name

12.
Address

Mondale for President Campaign Committee

13. Dated January 31, 1984

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GCC#2122

Complaint Filed by RALPH MARTIN HETTINGA, JR.	-- MUR 1641

State of New Hampshire)
)ss.:
County of Merrimack)

AFFIDAVIT OF MELVIN MYLER, JR.

MELVIN MYLER, JR., being duly sworn, deposes and says:

1. I am the Executive Director of the NEA-New Hampshire ("NH"). In this capacity, I have primary responsibility for the day-to-day operation of NH, including the utilization of its facilities and equipment.

2. NH's principal place of business is 103 N. State St., Concord, New Hampshire. NH owns this building.

3. In the fall of 1983, a representative of the Mondale for President Committee, Inc. ("Committee") asked me whether it could use the telephones in the NH building. I verbally agreed to an arrangement pursuant to which:

a. The Committee could use certain telephones in the NH building after normal NH business hours and on weekends, from November 7, 1983 through February 28, 1984, the date of the New Hampshire Democratic Primary Election; and

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b. The Committee would reimburse NH for the cost of the telephone calls made and, in addition, pay NH an appropriate rental charge for the use of its facilities and equipment.

4. On January 31, 1984, Marilyn Monahan, President of NH, entered into a written agreement with the Committee that reflected the terms of the aforementioned verbal agreement. A copy of the January 31, 1984 agreement is attached to this affidavit.

5. The Committee used certain telephones in the NH building from November 7, 1983, through February 28, 1984. In connection with the telephoning, the Committee used certain office furniture and occupied 200 square feet of space.

6. The Committee also used the NH building as a distribution center for material for the Concord area on two weekends (i.e., a total of four days) in February, 1984.

7. NH provided heat and electricity during the hours that the Committee used the NH building.

8. NH does not have a regular billing procedure and handles such matters on an ad hoc basis. In the instant situation, NH made a business judgment to send the Committee an interim bill on February 7, 1984, covering certain costs incurred by the Committee through that date. This bill, which was for $2,475.00, was paid by the Committee on March 29, 1984.

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9. NH now is preparing a bill for the remaining amount owed by the Committee as a result of its use of NH's telephones and facilities. In this process, the following calculations are being used:

a. For Telephones: A pro-rata share of the telephone service and equipment charges (including Wide Area Telephone Service lines) paid by NH based on the extent of Committee use; and

b. For the NH Building: NH has made a business judgment that the normal and usual rental charge for space in the Concord area comparable to that used by the Committee is $7 per square foot per month, including utilities and furniture. The Committee will be billed at this rate for the space used. NH has made a further business judgment that a reasonable charge for the use of the NH building as a distribution center is $25 per day, including utilities and furniture. The Committee will be billed at this rate for each of the four days in question.

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NH will send the bill to the Committee as soon as it is completed.

MELVIN MYLER, JR.

Sworn to before me this
__ day of_____, 1984.

NOTARY PUBLIC

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AGREEMENT FOR THE USE OF LABOR ORGANIZATION FACILITIES AND EQUIPMENT

1. The Mondale for President Campaign Committee ("Committee") and X NEA - New Hampshire ("labor organization") agree this 31 day of January, 1983 that for the consideration set forth below, the Committee will use the following facilities and equipment of the labor organization on the dates indicated:

2. Dates of use: From Nov 1, 1983 to Feb. 28, 1984

3. Location of facilities to be used: 103 N Main St

4. Description of facilities and equipment:

7 phones

5. Other: Fax copy between 8am and 5pm weekdays

The labor organization agrees to invoice the Committee for the actual use of the facilities and equipment set forth above in an amount based on the normal and usual rental charge for such facilities and equipment in this community and including any actual telephone charges incurred by the Committee. The invoice will also include billing for the cost of any supplies provided to the Committee. The labor organization will promptly provide its invoice to the Committee, 2201 Wisconsin Avenue, N.W., Washington, D.C. 20007.

The Committee agrees to reimburse the labor organization for use of the labor organization's facilities within a commercially reasonable time.

The undersigned Committee representative is authorized to sign this Agreement on behalf of the Committee.

6. Signed: X Marilyn Monahan

7. X MARILYN MONAHAN
Name

8. X PRESIDENT
Position

9. X NEA - NEW HAMPSHIRE
Labor Organization

10. [signature]

11. Clark Bantson
Name

12. 80 N. Main
Concord, NH 03301
Address

Mondale for President
Campaign Committee

13. Dated X JAN. 31, 1984

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nea
NATIONAL EDUCATION ASSOCIATION • 1201 16th St., N.W., Washington, D.C. 20036 • (202) 822-7035
MARY HATWOOD FUTRELL, President
KEITH GEIGER, Vice President
ROXANNE E. BRADSHAW, Secretary-Treasurer
DON CAMERON, Executive Director

LEGAL SERVICES
OFFICE OF GENERAL COUNSEL

BCC

BY HAND

April 18, 1984

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

Re: MUR 1641

Dear Mr. Steele:

With respect to Robert Chanin's letter to you of April 13, 1984, I have enclosed the executed affidavits from the Executive Directors of the Iowa State Education Association and NEA-New Hampshire.

Sincerely,

Geraldine Moore

Geraldine Moore
Secretary to Robert Chanin

encs.

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Complaint Filed by RALPH MARTIN HETTINGA, JR.	)	MUR 1641

State of New Hampshire)
)ss.:
County of Merrimack)

AFFIDAVIT OF MELVIN MYLER, JR.

MELVIN MYLER, JR., being duly sworn, deposes and says:

1. I am the Executive Director of the NEA-New Hampshire ("NH"). In this capacity, I have primary responsibility for the day-to-day operation of NH, including the utilization of its facilities and equipment.

2. NH's principal place of business is 103 N. State St., Concord, New Hampshire. NH owns this building.

3. In the fall of 1983, a representative of the Mondale for President Committee, Inc. ("Committee") asked me whether it could use the telephones in the NH building. I verbally agreed to an arrangement pursuant to which:

a. The Committee could use certain telephones in the NH building after normal NH business hours and on weekends, from November 7, 1983 through February 28, 1984, the date of the New Hampshire Democratic Primary Election; and

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b. The Committee would reimburse NH for the cost of the telephone calls made and, in addition, pay NH an appropriate rental charge for the use of its facilities and equipment.

4. On January 31, 1984, Marilyn Monahan, President of NH, entered into a written agreement with the Committee that reflected the terms of the aforementioned verbal agreement. A copy of the January 31, 1984 agreement is attached to this affidavit.

5. The Committee used certain telephones in the NH building from November 7, 1983, through February 28, 1984. In connection with the telephoning, the Committee used certain office furniture and occupied 200 square feet of space.

6. The Committee also used the NH building as a distribution center for material for the Concord area on two weekends (i.e., a total of four days) in February, 1984.

7. NH provided heat and electricity during the hours that the Committee used the NH building.

8. NH does not have a regular billing procedure and handles such matters on an ad hoc basis. In the instant situation, NH made a business judgment to send the Committee an interim bill on February 7, 1984, covering certain costs incurred by the Committee through that date. This bill, which was for $2,475.00, was paid by the Committee on March 29, 1984.

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9. NH now is preparing a bill for the remaining amount owed by the Committee as a result of its use of NH's telephones and facilities. In this process, the following calculations are being used:

a. For Telephones: A pro-rata share of the telephone service and equipment charges (including Wide Area Telephone Service lines) paid by NH based on the extent of Committee use; and

b. For the NH Building: NH has made a business judgment that the normal and usual rental charge for space in the Concord area comparable to that used by the Committee is $7 per square foot per month, including utilities and furniture. The Committee will be billed at this rate for the space used. NH has made a further business judgment that a reasonable charge for the use of the NH building as a distribution center is $25 per day, including utilities and furniture. The Committee will be billed at this rate for each of the four days in question.

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NH will send the bill to the Committee as soon as it is completed.

MELVIN MYLER, JR.

Sworn to before me this
16th day of April, 1984.

NOTARY PUBLIC

CAROLE H. MACK, Notary Public
My Commission Expires October 1, 1986

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FACILITIES AND EQUIPMENT

1. The Mondale for President Campaign Committee ("Committee") and X NEA - New Hampshire ("labor organization") agree this 31 day of January, 1983 that for the consideration set forth below, the Committee will use the following facilities and equipment of the labor organization on the dates indicated:

2. Dates of use: From Jan 1 '83 to Feb 28 '84

3. Location of facilities to be used: 103 N. Main St.

4. Description of facilities and equipment:

7 phones

5. Other: Fax copy [illegible]

The labor organization agrees to invoice the Committee for the actual use of the facilities and equipment set forth above in an amount based on the normal and usual rental charge for such facilities and equipment in this community and including any actual telephone charges incurred by the Committee. The invoice will also include billing for the cost of any supplies provided to the Committee. The labor organization will promptly provide its invoice to the Committee, 2201 Wisconsin Avenue, N.W., Washington, D.C. 20007.

The Committee agrees to reimburse the labor organization for use of the labor organization's facilities within a commercially reasonable time.

The undersigned Committee representative is authorized to sign this Agreement on behalf of the Committee.

6. Signed: X Marilyn Monahan

7. X MARILYN MONAHAN
Name

8. X PRESIDENT
Position

9. X NEA - NEW HAMPSHIRE
Labor Organization

10. [signature]

11. Clark Bantson
Name

12. 80 N. Main
Concord, NH 03301
Address

Mondale for President
Campaign Committee

13. Dated X JAN. 31, 1984

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Complaint Filed by RALPH MARTIN HETTINGA, JR.	)	MUR 1641

State of Iowa)
)ss.:
County of Polk)

AFFIDAVIT OF FRED R. COMER

FRED R. COMER, being duly sworn, deposes and says:

1. I am the Executive Director of the Iowa State Education Association ("ISEA"). In this capacity, I have primary responsibility for the day-to-day operation of ISEA, including the utilization of its facilities and equipment.

2. ISEA's principal place of business is 4025 Tonawanda Drive, Des Moines, Iowa. ISEA owns this building. ISEA also rents facilities at various other locations throughout the state, including Red Oak and Algona.

3. In December 1983, a representative of the Mondale for President Campaign Committee, Inc. ("Committee") asked George Brown, an ISEA staff member, whether it could use the telephones at ISEA's Des Moines building and at its Red Oak and Algona facilities.

4. Brown discussed this request with me. I authorized him to enter into an agreement with the Committee pursuant to which:

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(a) The Committee could use certain telephones in the three ISEA facilities from January 11, 1984, through February 21, 1984, the day after the Iowa Caucuses; and

(b) the Committee would reimburse ISEA for the cost of telephone calls made and, in addition, pay ISEA an appropriate rental charge for the use of its facilities and equipment.

A verbal agreement to this effect was entered into by Brown and the Committee in late December 1983.

5. On January 31, 1984, I entered into a written agreement with the Committee that reflected the terms of the aforementioned verbal agreement. A copy of the January 31, 1984 agreement is attached to this affdiavit.

6. The Committee used certain telephones in ISEA's Red Oak and Algona facilities from the beginning of February, 1984, through February 20, 1984. In connection with the telephoning, the Committee used two tables and five chairs and occupied 40 square feet of space in the Red Oak facility, and used one table and four chairs and occupied 25 square feet of space in the Algona facility.

7. The Committee used certain telephones in ISEA's Des Moines building for two days for a "telephone blitz." In connection with the telephoning, the Committee occupied one wing of the building and used the furniture in that wing.

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8. ISEA provided heat and electricity during the hours that the Committee used ISEA's Des Moines building and its Red Oak and Algona facilities.

9. ISEA does not have a regular billing procedure and handles such matters on an ad hoc basis. In the instant situation, ISEA made a business judgment not to bill the Committee on an interim basis, but to send a single bill when it knew the total amount owed.

10. ISEA received its February telephone and utility bills several weeks ago and now is preparing a bill to send to the Committee. In this process, the following calculations are being used:

a. For Telephones: The actual cost for long-distance calls made by the Committee and a pro-rata share of the telephone and equipment charges paid by ISEA based on the extent of Committee use;

b. For ISEA's Red Oak and Algona Facilities: A pro-rata share of the rent and utilities paid by ISEA based on the extent of Committee use, and a total of $30 for the use of the furniture at both of the facilities; and

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c. For ISEA's Des Moines Building: A charge of $50 per day for each of the two days that the Committee used the wing of the building, including utilities and furniture. The ISEA's Des Moines building is on the national register of historic landmarks, and $50 per day is the amount regularly charged by ISEA for its use, regardless of the amount of space used. I believe that a $50 per day charge for the wing used by the Committee is higher than the usual and normal rental charge for comparable space in the Des Moines area.

ISEA will send the bill to the Committee as soon as it is completed.

Fred R. Comer
FRED R. COMER

Sworn to before me this
16 day of April, 1984.

Robert R. Meyer
NOTARY PUBLIC

8504054254

AGREEMENT FOR THE USE OF LABOR ORGANIZATION FACILITIES AND EQUIPMENT

1. The Mondale for President Campaign Committee ("Committee") and Iowa State Education Association ("labor organization") agree this 31st day of January, 1984 that for the consideration set forth below, the Committee will use the following facilities and equipment of the labor organization on the dates indicated:

2. Dates of use: From January 11, 1984 to February 21, 1984

3. Location of facilities to be used: 4025 Tonawanda Dr., Des Moines; 1110 Broadway, Red Oak; 2½ East State, Algona;

4. Description of facilities and equipment:

Telephones and supplies incidental to telephone use.

5. Other:

The labor organization agrees to invoice the Committee for the actual use of the facilities and equipment set forth above in an amount based on the normal and usual rental charge for such facilities and equipment in this community and including any actual telephone charges incurred by the Committee. The invoice will also include billing for the cost of any supplies provided to the Committee. The labor organization will promptly provide its invoice to the Committee, 2201 Wisconsin Avenue, N.W., Washington, D.C. 20007.

The Committee agrees to reimburse the labor organization for use of the labor organization's facilities within a commercially reasonable time.

The undersigned Committee representative is authorized to sign this Agreement on behalf of the Committee.

6. Signed: Fred R Comer

7. Fred R. Comer
Name

8. Executive Director
Position

9. Iowa State Education Association
Labor Organization

10.

11.
Name

12.
Address

Mondale for President Campaign Committee

13. Dated January 31, 1984

(70)

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

David M. Ifshin, Esq.
Carolyn U. Oliphant, Esq.
Mondale for President Committee, Inc.
2201 Wisconsin Avenue, N.W.
Suite 100
Washington, D.C. 20007

Re: MUR 1641
Walter F. Mondale
Mondale for President
Committee, Inc.
Michael S. Berman, Treasurer

8504054256

Dear Mr. Ifshin and Ms. Oliphant:

On , 1984, the Commission notified your clients of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on , 1984, determined that on the basis of the information in the complaint, and information provided by the respondents, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Margaret E. McCormick, Esq.
AFL-CIO Legal Department
815 - 16th Street, N.W.
Room 808
Washington, D.C. 20006

Re: MUR 1641
AFL-CIO
New Hampshire AFL-CIO
Iowa Federation of Labor AFL-CIO
Alabama Labor Council AFL-CIO

Dear Ms. McCormick:

On , 1984, the Commission notified your clients of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on , 1984, determined that on the basis of the information in the complaint, and information provided by the respondents, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

8504025557

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Robert H. Chanin, Esq.
1201 - 16th Street, N.W.
Washington, D.C. 20036

Re: MUR 1641
National Education Association
NEA - New Hampshire
Iowa State Education Association
Alabama Education Association

Dear Mr. Chanin:

On , 1984, the Commission notified your clients of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on , 1984, determined that on the basis of the information in the complaint, and information provided by the respondents, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

8504054258

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Mr. Ralph Martin Hettinga, Jr.
645 Compress Road
Las Cruces, New Mexico 88001

Re: MUR 1641

Dear Mr. Hettinga:

The Federal Election Commission has reviewed the allegations of your complaint dated March 5, 1984, and determined that on the basis of the information provided in your complaint and information provided by the Respondents there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") has been committed. Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

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

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure
General Counsel's Report

8504042559

MUR 1641

FEDERAL ELECTION COMMISSION

12 day report ; routing slips ; internal memo ; Comment sheets

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

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

Signed Maura E White

date July 29, 1985

8/6/85

FEC 9-21-77

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BCC #2174

LEGAL SERVICES
OFFICE OF GENERAL COUNSEL

NATIONAL EDUCATION ASSOCIATION • 1201 16th St., N.W., Washington, D.C. 20036 • (202) 822-7035

MARY HATWOOD FUTRELL, President
KEITH GEIGER, Vice President
ROXANNE E. BRADSHAW, Secretary-Treasurer

DON CAMERON, Executive Director

8 3 0 8

BY HAND

April 18, 1984

MUR 1641
Kramer

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

Re: MUR 1641

Dear Mr. Steele:

With respect to Robert Chanin's letter to you of April 13, 1984, I have enclosed the executed affidavits from the Executive Directors of the Iowa State Education Association and NEA-New Hampshire.

Sincerely,

Geraldine Moore

Geraldine Moore
Secretary to Robert Chanin

encs.

8504254561

Complaint Filed by RALPH MARTIN HETTINGA, JR.	MUR 1641

State of Iowa)
)ss.:
County of Polk)

AFFIDAVIT OF FRED R. COMER

FRED R. COMER, being duly sworn, deposes and says:

1. I am the Executive Director of the Iowa State Education Association ("ISEA"). In this capacity, I have primary responsibility for the day-to-day operation of ISEA, including the utilization of its facilities and equipment.

2. ISEA's principal place of business is 4025 Tonawanda Drive, Des Moines, Iowa. ISEA owns this building. ISEA also rents facilities at various other locations throughout the state, including Red Oak and Algona.

3. In December 1983, a representative of the Mondale for President Campaign Committee, Inc. ("Committee") asked George Brown, an ISEA staff member, whether it could use the telephones at ISEA's Des Moines building and at its Red Oak and Algona facilities.

4. Brown discussed this request with me. I authorized him to enter into an agreement with the Committee pursuant to which:

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(a) The Committee could use certain telephones in the three ISEA facilities from January 11, 1984, through February 21, 1984, the day after the Iowa Caucuses; and

(b) the Committee would reimburse ISEA for the cost of telephone calls made and, in addition, pay ISEA an appropriate rental charge for the use of its facilities and equipment.

A verbal agreement to this effect was entered into by Brown and the Committee in late December 1983.

5. On January 31, 1984, I entered into a written agreement with the Committee that reflected the terms of the aforementioned verbal agreement. A copy of the January 31, 1984 agreement is attached to this affdiavit.

6. The Committee used certain telephones in ISEA's Red Oak and Algona facilities from the beginning of February, 1984, through February 20, 1984. In connection with the telephoning, the Committee used two tables and five chairs and occupied 40 square feet of space in the Red Oak facility, and used one table and four chairs and occupied 25 square feet of space in the Algona facility.

7. The Committee used certain telephones in ISEA's Des Moines building for two days for a "telephone blitz." In connection with the telephoning, the Committee occupied one wing of the building and used the furniture in that wing.

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8. ISEA provided heat and electricity during the hours that the Committee used ISEA's Des Moines building and its Red Oak and Algona facilities.

9. ISEA does not have a regular billing procedure and handles such matters on an ad hoc basis. In the instant situation, ISEA made a business judgment not to bill the Committee on an interim basis, but to send a single bill when it knew the total amount owed.

10. ISEA received its February telephone and utility bills several weeks ago and now is preparing a bill to send to the Committee. In this process, the following calculations are being used:

a. For Telephones: The actual cost for long-distance calls made by the Committee and a pro-rata share of the telephone and equipment charges paid by ISEA based on the extent of Committee use;

b. For ISEA's Red Oak and Algona Facilities: A pro-rata share of the rent and utilities paid by ISEA based on the extent of Committee use, and a total of $30 for the use of the furniture at both of the facilities; and

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c. For ISEA's Des Moines Building: A charge of $50 per day for each of the two days that the Committee used the wing of the building, including utilities and furniture. The ISEA's Des Moines building is on the national register of historic landmarks, and $50 per day is the amount regularly charged by ISEA for its use, regardless of the amount of space used. I believe that a $50 per day charge for the wing used by the Committee is higher than the usual and normal rental charge for comparable space in the Des Moines area.

ISEA will send the bill to the Committee as soon as it is completed.

Fred R. Comer
FRED R. COMER

Sworn to before me this
16 day of April, 1984.

Robert R. Meyer
NOTARY PUBLIC

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AGREEMENT FOR THE USE OF LABOR ORGANIZATION FACILITIES AND EQUIPMENT

1. The Mondale for President Campaign Committee ("Committee") and Iowa State Education Association ("labor organization") agree this 31st day of January, 1984 that for the consideration set forth below, the Committee will use the following facilities and equipment of the labor organization on the dates indicated:

2. Dates of use: From January 11, 1984 to February 21, 1984

3. Location of facilities to be used: 4025 Tonawanda Dr., Des Moines; 1110 Broadway, Red Oak; 2½ East State, Algona;

4. Description of facilities and equipment:

Telephones and supplies incidental to telephone use.

5. Other:

The labor organization agrees to invoice the Committee for the actual use of the facilities and equipment set forth above in an amount based on the normal and usual rental charge for such facilities and equipment in this community and including any actual telephone charges incurred by the Committee. The invoice will also include billing for the cost of any supplies provided to the Committee. The labor organization will promptly provide its invoice to the Committee, 2201 Wisconsin Avenue, N.W., Washington, D.C. 20007.

The Committee agrees to reimburse the labor organization for use of the labor organization's facilities within a commercially reasonable time.

The undersigned Committee representative is authorized to sign this Agreement on behalf of the Committee.

6. Signed: Fred R Comer

7. Fred R. Comer
Name

8. Executive Director
Position

9. Iowa State Education Association
Labor Organization

10.

11.
Name

12.
Address

Mondale for President Campaign Committee

13. Dated January 31, 1984

8504256

Complaint Filed by RALPH MARTIN HETTINGA, JR.	)	MUR 1641

State of New Hampshire)
)ss.:
County of Merrimack)

AFFIDAVIT OF MELVIN MYLER, JR.

MELVIN MYLER, JR., being duly sworn, deposes and says:

1. I am the Executive Director of the NEA-New Hampshire ("NH"). In this capacity, I have primary responsibility for the day-to-day operation of NH, including the utilization of its facilities and equipment.

2. NH's principal place of business is 103 N. State St., Concord, New Hampshire. NH owns this building.

3. In the fall of 1983, a representative of the Mondale for President Committee, Inc. ("Committee") asked me whether it could use the telephones in the NH building. I verbally agreed to an arrangement pursuant to which:

a. The Committee could use certain telephones in the NH building after normal NH business hours and on weekends, from November 7, 1983 through February 28, 1984, the date of the New Hampshire Democratic Primary Election; and

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b. The Committee would reimburse NH for the cost of the telephone calls made and, in addition, pay NH an appropriate rental charge for the use of its facilities and equipment.

4. On January 31, 1984, Marilyn Monahan, President of NH, entered into a written agreement with the Committee that reflected the terms of the aforementioned verbal agreement. A copy of the January 31, 1984 agreement is attached to this affidavit.

5. The Committee used certain telephones in the NH building from November 7, 1983, through February 28, 1984. In connection with the telephoning, the Committee used certain office furniture and occupied 200 square feet of space.

6. The Committee also used the NH building as a distribution center for material for the Concord area on two weekends (i.e., a total of four days) in February, 1984.

7. NH provided heat and electricity during the hours that the Committee used the NH building.

8. NH does not have a regular billing procedure and handles such matters on an ad hoc basis. In the instant situation, NH made a business judgment to send the Committee an interim bill on February 7, 1984, covering certain costs incurred by the Committee through that date. This bill, which was for $2,475.00, was paid by the Committee on March 29, 1984.

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9. NH now is preparing a bill for the remaining amount owed by the Committee as a result of its use of NH's telephones and facilities. In this process, the following calculations are being used:

a. For Telephones: A pro-rata share of the telephone service and equipment charges (including Wide Area Telephone Service lines) paid by NH based on the extent of Committee use; and

b. For the NH Building: NH has made a business judgment that the normal and usual rental charge for space in the Concord area comparable to that used by the Committee is $7 per square foot per month, including utilities and furniture. The Committee will be billed at this rate for the space used. NH has made a further business judgment that a reasonable charge for the use of the NH building as a distribution center is $25 per day, including utilities and furniture. The Committee will be billed at this rate for each of the four days in question.

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NH will send the bill to the Committee as soon as it is completed.

Melvin Myler, Jr.
MELVIN MYLER, JR.

Sworn to before me this
16th day of April, 1984.

Carole N. Mack
NOTARY PUBLIC

CAROLE N. MACK, Notary Public
My Commission Expires October 1, 1985

8504054257 0

AGREEMENT FOR THE USE OF LABOR ORGANIZATION FACILITIES AND EQUIPMENT

1. The Mondale for President Campaign Committee ("Committee") and X NEA - New Hampshire ("labor organization") agree this 31 day of January, 1983 that for the consideration set forth below, the Committee will use the following facilities and equipment of the labor organization on the dates indicated:

2. Dates of use: From Jan 1, 1983 to Feb. 28, 1984

3. Location of facilities to be used: 103 N. Main St.

4. Description of facilities and equipment:

7

5. Other: Fax machine, phone and typewriter

The labor organization agrees to invoice the Committee for the actual use of the facilities and equipment set forth above in an amount based on the normal and usual rental charge for such facilities and equipment in this community and including any actual telephone charges incurred by the Committee. The invoice will also include billing for the cost of any supplies provided to the Committee. The labor organization will promptly provide its invoice to the Committee, 2201 Wisconsin Avenue, N.W., Washington, D.C. 20007.

The Committee agrees to reimburse the labor organization for use of the labor organization's facilities within a commercially reasonable time.

The undersigned Committee representative is authorized to sign this Agreement on behalf of the Committee.

6. Signed: X Marilyn Monahan

7. X MARILYN MONAHAN
Name

8. X PRESIDENT
Position

9. X NEA - NEW HAMPSHIRE
Labor Organization

10. [signature]

11. Clark Bartson
Name

12. 80 N. Main
Concord, NH 03301
Address

Mondale for President
Campaign Committee

13. Dated X JAN. 31, 1984

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NATIONAL EDUCATION ASSOCIATION
OF THE UNITED STATES
1201 Sixteenth Street, N. W.
Washington, D. C. 20036

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OFFICE OF GENERAL COUNSEL
NATIONAL EDUCATION ASSOCIATION

TO:

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

GCC# 2115

Mondale for President
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007
Telephone: 202-625-1600

MONDALE

April 13, 1984

MUR 1641
Kramer

Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, NW
Washington, DC 20463

R: MUR 1641

APR 13 P3:04

Dear Mr. Steele:

Attached is an affidavit submitted as an additional exhibit to the response of the Mondale for President Committee, Inc. ("the Committee") filed on April 11, 1984 in MUR 1641.

The affidavit is by Joe Trippi, Iowa State Co-ordinator for the Committee and should supplement Exhibit D, the statement of Christine Brewer, referred to on page 14 of the Committee's response. We were unable to submit Mr. Trippi's affidavit with the Committee's response on April 11, 1984, since he was unavailable.

Sincerely,

Carolyn U. Oliphant

Carolyn U. Oliphant
Deputy General Counsel

Attachment

8504042573

EXHIBIT B

Affidavit of Joe Trippi

Joe Trippi, being duly sworn, deposes and says:

During the period between January 15, 1984, and February 20, 1984, I was the Iowa state coordinator for the Mondale for President campaign.

It is my understanding that the campaign made use of union office space, telephones, and other facilities in Iowa pursuant to use agreements. Under these agreements, the unions who provided such facilities have agreed to invoice the campaign at the normal and usual charge for the use of all facilities, and the campaign will reimburse the unions in the appropriate amount within a commercially reasonable time.

During the course of the Iowa campaign, various newspapers (in articles attached to respondent's complaint) reported that I stated that the campaign was paying 10 cents per phone call for the use of union telephones. That figure was not intended to represent a fixed amount, but simply meant that we are paying whatever the normal charge is for phone calls.

It is my further understanding that the campaign procedure is for the national headquarters in Washington, D.C. to receive the invoices that are prepared by the unions for the use of phones and other facilities. The national headquarters is then responsible for payment. As Iowa state coordinator, my responsibility was to ensure that no union facilities were used by the campaign without an understanding that there would be full reimbursement. I had no responsibility either for the payment of these bills or for the calculation of the appropriate amounts to be billed.

...

Signed Joe Trippi

The foregoing affidavit was subscribed and sworn to before me this ____ day of April, 1984, by Joe Trippi.

Harriet E. Gaige
Notary Public

My Commission expires on August, 1986.

0 5 0 4 0 5 4 2 5 7 1

GCC# 2122

nea
NATIONAL EDUCATION ASSOCIATION • 1201 16th St., N.W., Washington, D C 20036 • (202) 822-7035
MARY HATWOOD FUTRELL, President
KEITH GEIGER, Vice President
ROXANNE E. BRADSHAW, Secretary-Treasurer
DON CAMERON, Executive Director

LEGAL SERVICES
OFFICE OF GENERAL COUNSEL

April 13, 1984

MUR 1641
Kramer

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

Re: MUR 1641

Dear Mr. Steele:

Attached is the response of the National Education Association, the Alabama Education Association, the Iowa State Education Association, and NEA-New Hampshire to the above MUR. As you will note, the response includes affidavits from the Executive Director of the Iowa State Education Association and NEA-New Hampshire. Because of certain unanticipated logistical problems, we have not yet received the executed affidavits and, in order to meet the filing deadline, are submitting unexecuted copies. As soon as we receive the executed affidavits, which should be within the next few days, we will hand deliver them to you. We apologize for any inconvenience that this may cause you.

Sincerely,

Robert H. Chanin
General Counsel

RHC:gm
Attachments

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GCC#2122

nea

LEGAL SERVICES
OFFICE OF GENERAL COUNSEL

NATIONAL EDUCATION ASSOCIATION • 1201 16th St., N.W., Washington, D C 20036 • (202) 822-7035

MARY HATWOOD FUTRELL, President
KEITH GEIGER, Vice President
ROXANNE E. BRADSHAW, Secretary-Treasurer

DON CAMERON, Executive Director

April 13, 1984

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

Re: MUR 1641

Dear Mr. Steele:

On March 9, 1984, you wrote to the National Education Association ("NEA") regarding the above MUR. This MUR is based upon a complaint filed by Ralph Martin Hettinga, Jr, in which he alleges that various organizations, including NEA and three of its state affiliates, have "engaged in flagrant violations of Section 441b of the Federal Election Campaign Act, as Amended, by using union treasury funds to subsidize Walter Mondale's Presidential campaign with cut-rate goods and services." Complaint at 2. We have been authorized to represent NEA and the three state affiliates in question -- i.e., the Alabama Education Association ("AEA"), the Iowa State Education Association ("ISEA") and NEA-New Hampshire ("NH") -- in connection with this MUR, and this response is submitted on behalf of the four associations.

A. The Requirements for a Procedurally Sufficient Complaint

This complaint initially was filed by Mr. Hettinga on February 17, 1984. On February 21, 1984, you notified Mr. Hettinga that because his "correspondence does not meet these requirements [of the Federal Election Campaign Act and the Commission's Regulations], the Commission can take no action at this time to investigate this matter." You then outlined the nature of these requirements and provided Mr. Hettinga with certain materials "should [he] wish to file a legally sufficient complaint with the Commission."

On March 5, 1984, Mr. Hettinga responded to your February 21 letter. Although it was his opinion that you were

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using "nitpicking technicalities as a pretext to delay investigating the matter", he did re-file the complaint, this time using his full legal name and a different form of affirmation. Apparently concluding that the complaint now was procedurally sufficient, you assigned it an MUR and on March 9, 1984, notified respondents. Although the March 5 complaint does satisfy the requirements of 11 CFR §111.4(b)(1) (i.e., it "provide[s] the full name" of the complainant) and 11 CFR §111.4(b)(2) (i.e., it is "sworn to"), we believe that it still fails to meet the requirements for a procedurally sufficient complaint as set forth in the Commission's Regulations.

The Commission's Regulations require that a complaint "contain a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction." 11 CFR §111.4(d)(3). In his March 5 letter, Mr. Hettinga contends that the "facts of the alleged violations were clearly and concisely recited on pages 4 through 10 of the complaint", but specificity is found only in a single paragraph on page 10 of the complaint. In this paragraph, Mr. Hettinga contends:

> Mondale and his election committee (1) are paying ten cents apiece for calls costing other candidates twenty to fifty cents apiece, (2) are not having to pay deposits and installation charges which other candidates have to pay, and (3) are not paying full fair market value for office space.*/

The Commission's Regulations also require that:

> Statements which are not based upon personal knowledge should be accompanied by an identification of the source of information which gives rise to the complainants belief in the truth of such statements.

11 CFR §111.4(d)(2). Mr. Hettinga does not assert that he has personal knowledge of any of the alleged statutory violations, and, in response to this requirement, refers to various media reports -- specifically, eight newspaper articles and the purported transcript of a segment of the Today Show.

The Commission has "expressed concern as to whether or not complaints based on newspaper articles are proper complaints. . . because of the possibility of inaccuracies

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*/ The complaint characterizes these activities as both a violation of the Act and "a crass violation of the First Amendment rights of working men and women." It is unnecessary for present purposes to address this latter allegation inasmuch as it is outside the Commission's jurisdiction.

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in news accounts and because the news accounts would not be within a complainant's personal knowledge." Commission Memorandum No. 663. Although not ruling that a complaint based solely upon media reports is per se procedurally insufficient, the Commission has made it clear that in order for such a complaint to be processed, "the news article on which the complaint is based must be substantive in its facts. . . ." Id.

It scarcely warrants extended discussion to demonstrate that the media reports upon which the instant complaint is based fail to pass muster under this standard. They do not provide dates, places or any other specifics vis-a-vis the alleged statutory violations, but consist essentially of generalized, undocumented, accusations by spokespersons for candidates who are or were in competition with Vice-President Mondale. Mr. Hettinga provides no other corroborative evidence, and fails to set forth any basis whatsoever for his apparent "belief in the truth of such statements." 11 CFR §111.4(d)(2).

In its response to this MUR, respondent Mondale for President Committee, Inc. ("Committee") presents a detailed analysis of the media reports relied upon by Mr. Hettinga, and observes that "[i]t is precisely because of these types of general accusations and inaccurate factual assertions that the Commission adopted a policy of careful scrutiny of complaints based solely on newspaper articles." Response of Committee at p. 10. We will not at this juncture burden you with a duplicative analysis. Suffice it to say that we concur completely in the Committee's conclusion that these reports "provide an insufficient basis for the initiation of an enforcement action", id. at p. 11, and join in its request that the complaint be dismissed as procedurally insufficient.

B. The Alleged Statutory Violations

Assuming, arguendo, that the Commission does not dismiss the complaint as procedurally insufficient, it should find no reason to believe that the complaint sets forth a violation of the Act by any of our clients.

We request at the outset that the complaint be summarily dismissed as to two of our clients -- specifically, NEA and AEA. The only reference to NEA activity in the media reports relied upon by Mr. Hettinga appears in the February 10, 1984 article from the Washington Post (Exhibit 1 to the complaint). After stating that in Iowa "[t]he United Food and Commercial Union picks up the rest of the tab [for Mondale headquarters] and rents the phones", the article observes:

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> Mondale, the front-runner for the Democratic presidential nomination, was endorsed by the AFL-CIO and National Education Association and has similar cost-sharing arrangements with the labor groups for phones and headquarters space in 19 Iowa cities. (emphasis added)

To the extent the underscored reference to "the labor groups" in the above excerpt is intended to include NEA, the allegation is totally without foundation. Inasmuch as NEA has not at any time relevant to the present inquiry owned, leased or otherwise occupied any facilities or telephones in Iowa, it obviously could not have entered into "cost-sharing arrangements . . . for phones and headquarters space" with the Committee.

Although there is no express or even implied accusation in any of the media reports that NEA has entered into a cost-sharing arrangement with the Committee in Alabama or New Hampshire, we note in the interest of completeness that NEA has not at any time relevant to the present inquiry owned, leased or otherwise occupied any facilities or telephones in those states -- again conclusively negating the possibility of such an arrangement.

Nor can NEA properly be named as a respondent in this MUR simply because it is the national parent organization of AEA, ISEA and NH. These latter organizations are separate autonomous entities, each with its own governing documents, budget, staff, property, etc. The affiliation relationship does not give NEA control of or make it accountable under the Act for the actions of AEA, ISEA or NH.

AEA likewise is mentioned in only one of the media reports relied upon by Mr. Hettinga. The February 14, 1984 article from the Washington Post (Exhibit 7) refers to "the activity [in support of Mondale] of the 53,000-member Alabama affiliate of the NEA . . .", and indicates that "Joe Reed, the influential black leader of the Alabama Education Association and head of the black Alabama Democratic Conference has fought to hold the line for Mondale among blacks." Although these excerpts make no mention of the use by the Committee of any AEA facilities or telephones -- and despite our reluctance to respond to "nonaccusations" -- we offer the following dispositive fact: AEA has not at any time relevant to the present inquiry entered into any arrangement whatsoever with the Committee for the use of AEA facilities or telephones.

We see no need for further response on behalf of NEA or AEA: in light of the above, it is abundantly clear that no action should be taken against them in connection with this MUR.

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Our remaining clients -- ISEA and NH -- did enter into arrangements with the Committee for the use of facilities and telephones, but these arrangements did not in any way violate the Act or the Commission's Regulations. We begin our analysis with the fact that the Commission's Regulations do not in any sense prohibit a union from allowing a presidential campaign committee to utilize its facilities and telephones. To the contrary, such use is specifically authorized, provided the union is reimbursed "within a commercially reasonably time in the amount of the normal and usual rental charge . . . for the use. . . ." 11 CFR §114.9(d). The phrase "normal and usual rental charge" is defined in the Regulations to mean "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution." Id. at §100.7(a)(iii)(B). With specific regard to telephones, the Commission gave the phrase further definition in Advisory Opinion 1978-34, stating that the "normal and usual rental charge" is:

> [T]he cost . . . of those phone calls made and the normal and usual charge for the rental of such phones in the normal market, including the use of office space, utilities and furniture to conduct the telephoning.

In the Committee's response to this MUR, it discusses in detail the arrangements that have been made for the use of union facilities and telephones, and demonstrates that these arrangements are in compliance with applicable Commission regulations. Inasmuch as the Committee's presentation is cast in general terms, and makes no specific reference to the arrangements with ISEA and NH, we have by way of supplementation attached two affidavits to this letter. The first affidavit is by Fred R. Comer, Executive Director of ISEA, and sets forth the circumstances surrounding the Committee's use of ISEA facilities and telephones; the second affidavit is by Melvin E. Myler, Executive Director of NH, and sets forth the counterpart circumstances in NH. These affidavits affirm that:

1. The Committee already has been or "within a commercially reasonable time" will be billed for the use of ISEA and NH facilities and telephones; and

2. These bills have been or will be "in the amount of the normal and usual rental charge", computed in accordance with applicable Commission Regulations.

On the basis of the information set forth in this response, we respectfully request that the Commission dismiss

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Mr. Hettinga's March 5, 1984 complaint as procedurally insufficient or, in the alternative, find no reason to believe that the complaint sets forth a possible violation of the Act by NEA, AEA, ISEA or NH. In either event, the Commission should close the file on this MUR as to our clients.

Sincerely,

Robert H. Chanin
General Counsel

RHC:gm
Attachments

cc: Ken Melley, National Education Association
Paul Hubbert, Alabama Education Association
Fred Comer, Iowa State Education Association
Mel Myler, NEA-New Hampshire

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GCC#2128

Complaint Filed by RALPH MARTIN HETTINGA, JR.	)	MUR 1641

State of Iowa)
)ss.:
County of Polk)

AFFIDAVIT OF FRED R. COMER

FRED R. COMER, being duly sworn, deposes and says:

1. I am the Executive Director of the Iowa State Education Association ("ISEA"). In this capacity, I have primary responsibility for the day-to-day operation of ISEA, including the utilization of its facilities and equipment.

2. ISEA's principal place of business is 4025 Tonawanda Drive, Des Moines, Iowa. ISEA owns this building. ISEA also rents facilities at various other locations throughout the state, including Red Oak and Algona.

3. In December 1983, a representative of the Mondale for President Campaign Committee, Inc. ("Committee") asked George Brown, an ISEA staff member, whether it could use the telephones at ISEA's Des Moines building and at its Red Oak and Algona facilities.

4. Brown discussed this request with me. I authorized him to enter into an agreement with the Committee pursuant to which:

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(a) The Committee could use certain telephones in the three ISEA facilities from January 11, 1984, through February 21, 1984, the day after the Iowa Caucuses; and

(b) the Committee would reimburse ISEA for the cost of telephone calls made and, in addition, pay ISEA an appropriate rental charge for the use of its facilities and equipment.

A verbal agreement to this effect was entered into by Brown and the Committee in late December 1983.

5. On January 31, 1984, I entered into a written agreement with the Committee that reflected the terms of the aforementioned verbal agreement. A copy of the January 31, 1984 agreement is attached to this affdiavit.

6. The Committee used certain telephones in ISEA's Red Oak and Algona facilities from the beginning of February, 1984, through February 20, 1984. In connection with the telephoning, the Committee used two tables and five chairs and occupied 40 square feet of space in the Red Oak facility, and used one table and four chairs and occupied 25 square feet of space in the Algona facility.

7. The Committee used certain telephones in ISEA's Des Moines building for two days for a "telephone blitz." In connection with the telephoning, the Committee occupied one wing of the building and used the furniture in that wing.

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8. ISEA provided heat and electricity during the hours that the Committee used ISEA's Des Moines building and its Red Oak and Algona facilities.

9. ISEA does not have a regular billing procedure and handles such matters on an ad hoc basis. In the instant situation, ISEA made a business judgment not to bill the Committee on an interim basis, but to send a single bill when it knew the total amount owed.

10. ISEA received its February telephone and utility bills several weeks ago and now is preparing a bill to send to the Committee. In this process, the following calculations are being used:

a. For Telephones: The actual cost for long-distance calls made by the Committee and a pro-rata share of the telephone and equipment charges paid by ISEA based on the extent of Committee use;

b. For ISEA's Red Oak and Algona Facilities: A pro-rata share of the rent and utilities paid by ISEA based on the extent of Committee use, and a total of $30 for the use of the furniture at both of the facilities; and

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c. For ISEA's Des Moines Building: A charge of $50 per day for each of the two days that the Committee used the wing of the building, including utilities and furniture. The ISEA's Des Moines building is on the national register of historic landmarks, and $50 per day is the amount regularly charged by ISEA for its use, regardless of the amount of space used. I believe that a $50 per day charge for the wing used by the Committee is higher than the usual and normal rental charge for comparable space in the Des Moines area.

ISEA will send the bill to the Committee as soon as it is completed.

FRED R. COMER

Sworn to before me this
___ day of_____, 1984.

NOTARY PUBLIC

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AGREEMENT FOR THE USE OF LABOR ORGANIZATION FACILITIES AND EQUIPMENT

1. The Mondale for President Campaign Committee ("Committee") and Iowa State Education Association ("labor organization") agree this 31st day of January, 1984 that for the consideration set forth below, the Committee will use the following facilities and equipment of the labor organization on the dates indicated:

2. Dates of use: From January 11, 1984 to February 21, 1984.

3. Location of facilities to be used: 4025 Tonawanda Dr., Des Moines; 1110 Broadway, Red Oak; 2½ East State, Algona;

4. Description of facilities and equipment:

Telephones and supplies incidental to telephone use.

5. Other:

The labor organization agrees to invoice the Committee for the actual use of the facilities and equipment set forth above in an amount based on the normal and usual rental charge for such facilities and equipment in this community and including any actual telephone charges incurred by the Committee. The invoice will also include billing for the cost of any supplies provided to the Committee. The labor organization will promptly provide its invoice to the Committee, 2201 Wisconsin Avenue, N.W., Washington, D.C. 20007.

The Committee agrees to reimburse the labor organization for use of the labor organization's facilities within a commercially reasonable time.

The undersigned Committee representative is authorized to sign this Agreement on behalf of the Committee.

6. Signed: Fred R Comer

7. Fred R. Comer
Name

8. Executive Director
Position

9. Iowa State Education Association
Labor Organization

10.

11.
Name

12. Mondale for President (3/1/84
Address

Mondale for President
Campaign Committee

13. Dated January 31, 1984

8504258

GCC#2122

Complaint Filed by RALPH MARTIN HETTINGA, JR.	-- MUR 1641 --

State of New Hampshire)
)ss.:
County of Merrimack)

AFFIDAVIT OF MELVIN MYLER, JR.

MELVIN MYLER, JR., being duly sworn, deposes and says:

1. I am the Executive Director of the NEA-New Hampshire ("NH"). In this capacity, I have primary responsibility for the day-to-day operation of NH, including the utilization of its facilities and equipment.

2. NH's principal place of business is 103 N. State St., Concord, New Hampshire. NH owns this building.

3. In the fall of 1983, a representative of the Mondale for President Committee, Inc. ("Committee") asked me whether it could use the telephones in the NH building. I verbally agreed to an arrangement pursuant to which:

a. The Committee could use certain telephones in the NH building after normal NH business hours and on weekends, from November 7, 1983 through February 28, 1984, the date of the New Hampshire Democratic Primary Election; and

APR 13 P3:23

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b. The Committee would reimburse NH for the cost of the telephone calls made and, in addition, pay NH an appropriate rental --- charge for the use of its facilities and equipment.

4. On January 31, 1984, Marilyn Monahan, President of NH, entered into a written agreement with the Committee that reflected the terms of the aforementioned verbal agreement. A copy of the January 31, 1984 agreement is attached to this affidavit.

5. The Committee used certain telephones in the NH building from November 7, 1983, through February 28, 1984. In connection with the telephoning, the Committee used certain office furniture and occupied 200 square feet of space.

6. The Committee also used the NH building as a distribution center for material for the Concord area on two weekends (i.e., a total of four days) in February, 1984.

7. NH provided heat and electricity during the hours that the Committee used the NH building.

8. NH does not have a regular billing procedure and handles such matters on an ad hoc basis. In the instant situation, NH made a business judgment to send the Committee an interim bill on February 7, 1984, covering certain costs incurred by the Committee through that date. This bill, which was for $2,475.00, was paid by the Committee on March 29, 1984.

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9. NH now is preparing a bill for the remaining amount owed by the Committee as a result of its use of NH's telephones and facilities. In this process, the following calculations are being used:

a. For Telephones: A pro-rata share of the telephone service and equipment charges (including Wide Area Telephone Service lines) paid by NH based on the extent of Committee use; and

b. For the NH Building: NH has made a business judgment that the normal and usual rental charge for space in the Concord area comparable to that used by the Committee is $7 per square foot per month, including utilities and furniture. The Committee will be billed at this rate for the space used. NH has made a further business judgment that a reasonable charge for the use of the NH building as a distribution center is $25 per day, including utilities and furniture. The Committee will be billed at this rate for each of the four days in question.

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NH will send the bill to the Committee as soon as it is completed.

MELVIN MYLER, JR.

Sworn to before me this
__ day of_____, 1984.

NOTARY PUBLIC

8504054259 0

AGREEMENT FOR THE USE OF LABOR ORGANIZATION FACILITIES AND EQUIPMENT

1. The Mondale for President Campaign Committee ("Committee") and X NEA - New Hampshire ("labor organization") agree this 31 day of January, 1983 that for the consideration set forth below, the Committee will use the following facilities and equipment of the labor organization on the dates indicated:

2. Dates of use: From Jan 1, 1983 to Feb. 28, 1984

3. Location of facilities to be used: 103 N. Main St.

4. Description of facilities and equipment:

7 phones

5. Other: Fax machine, answering machine, and mailing

The labor organization agrees to invoice the Committee for the actual use of the facilities and equipment set forth above in an amount based on the normal and usual rental charge for such facilities and equipment in this community and including any actual telephone charges incurred by the Committee. The invoice will also include billing for the cost of any supplies provided to the Committee. The labor organization will promptly provide its invoice to the Committee, 2201 Wisconsin Avenue, N.W., Washington, D.C. 20007.

The Committee agrees to reimburse the labor organization for use of the labor organization's facilities within a commercially reasonable time.

The undersigned Committee representative is authorized to sign this Agreement on behalf of the Committee.

6. Signed: X Marilyn Monahan

7. X MARILYN MONAHAN
Name

8. X PRESIDENT
Position

9. X NEA - NEW HAMPSHIRE
Labor Organization

10. [signature]

11. Clark Bantson
Name

12. 80 N. Main
Concord, NH 03301
Address

Mondale for President
Campaign Committee

13. Dated X JAN. 31, 1984

8504054259 1

HAND-DELIVER

OFFICE OF GENERAL COUNSEL
NATIONAL EDUCATION ASSOCIATION

TO:

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

8504054259 2

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

EXECUTIVE COUNCIL

LANE KIRKLAND PRESIDENT THOMAS R. DONAHUE SECRETARY-TREASURER

John H. Lyons
S. Frank Raftery
Glenn E. Watts
Angelo Fosco
Lloyd McBride
Wm. W. Winpisinger
Wayne E. Glenn
John J. Sweeney
Barbara Hutchinson
Gerald W. McEntee
Patrick J. Campbell
Thomas W. Gleason
Murray H. Finley
Sol C. Chaikin
Charles H. Pillard
Kenneth T. Blaylock
William H. Wynn
Robert F. Gose
Frank Drozak
Richard I. Kilroy
William H. Bywater
Kenneth J. Brown
Frederick O'Neal
Albert Shanker
Edward T. Hanley
J. C. Turner
Alvin E. Heape
John DeConcini
Joyce D. Miller
James E. Hatfield
Vincent R. Sombrotto
Marvin J. Boede
Owen Bieber

Eat 9098

MUR 1641

Klamer

Charles N. Steele
General Counsel
Federal Election Commission
1325 K St., N.W.
Washington, D.C. 20463

Re: FEC MUR 1641

Dear Mr. Steele:

This letter constitutes the response of the American Federation of Labor and Congress of Industrial Organizations ("AFL-CIO"), the New Hampshire AFL-CIO, the Iowa Federation of Labor, AFL-CIO ("Iowa AFL-CIO") and the Alabama Labor Council, AFL-CIO ("Alabama AFL-CIO") (hereinafter "respondents") to your letter dated March 9, 1984, stating that the Commission has received a complaint alleging that respondents had violated the Federal Election Campaign Act of 1971, as amended ("the Act").

The complaint alleges that respondents have violated §441b of the Act by "providing Walter Mondale's election campaign with goods and services at below-market rates". This allegation is based entirely on unsubstantiated information gleaned from newspaper articles and television news reports. Even if these news accounts are taken as true, they do not describe any violation of the Act by any of the above-named respondents.*/ The complaint should therefore be dismissed for failing to meet the requirements of 11 C.F.R. §111.4(d). Should the complaint be found to satisfy the technical requirements of §111.4, for the reasons set forth below, the Commission should take no further action in this matter:

---

*/ One of the newspaper articles attached to the complaint, Exhibit 8, quotes William Holayter, Director the Legislative and Political Action Department of the International Association of Machinists and Aerospace Workers as saying that in some states members of the Machinists might call members of the Communications Workers and vice versa in connection with the primary process. What Mr. Holyater was suggesting was that members of the Machinists and other AFL-CIO affiliated unions might be calling each other while working as volunteers on AFL-CIO phone banks calling all AFL-CIO members and their families. See Affidavit of William Holayter, Attachment E.

8504054259 3

1. Respondent AFL-CIO has not furnished any goods or services to the Mondale For President Committee nor has the AFL-CIO rented or otherwise permitted the use of any of its facilities or equipment, including telephones, by the Mondale For President Committee. See Affidavit of John Perkins, Attachment A.

2. Respondent Iowa AFL-CIO has not furnished any goods or services to the Mondale For President Committee nor has the Iowa AFL-CIO permitted its facilities or equipment, including telephones, to be rented or used by the Mondale For President Committee. See Affidavit of James Wengert, Attachment B.

3. Respondent Alabama AFL-CIO has not furnished any goods or services to the Mondale For President Committee nor has the Alabama AFL-CIO permitted its facilities or equipment, including telephones, to be rented or used by the Mondale For President Committee. See Affidavit of A.G. Trammel, Attachment C.

4. Respondent New Hampshire AFL-CIO has not furnished any goods or services to the Mondale For President Committee other than the use certain of its telephones for which use the New Hampshire AFL-CIO has billed the Mondale For President Commitee in an amount which reflects the usual and normal rental charge for such facilities within the meaning of 11 C.F.R. §100.7(a)(1)(iii)(B).

The facts concerning the Mondale For President Committee's use of certain of the New Hampshire AFL-CIO's telephones are as follows. In connection with its program of making internal communications to AFL-CIO members and their families related to New Hampshire's Democratic presidential primary, the New Hampshire AFL-CIO installed nine telephones in the offices of Local 490 of the International Brotherhood of Electrical Workers, 16 Pierce Street, Dover, New Hampshire, and two telephones in the offices of Local 5173 of the United Steelworkers of America, 358 South Main Street, Laconia, New Hampshire.

In Dover, the New Hampshire AFL-CIO agreed to permit the Mondale For President Campaign, which was leasing space in the same offices, to use its nine telephones when those telephones were not being used by the New Hampshire AFL-CIO with the understanding that the Mondale For President Committee would reimburse the New Hampshire AFL-CIO for its use of those phones based on the normal and usual commercial rate.

In Laconia, the New Hampshire AFL-CIO allowed the Mondale For President Campaign to use one of its phones for six hours on the day of the New Hampshire democratic primary, February 28, 1984, with the understanding that the Mondale For President Committee would reimburse the organization for its use of that phone at the usual and normal commercial rate. See attached Affidavit of Charles Stott, Attachment D.

In each instance, the New Hampshire AFL-CIO has already billed the Mondale For President Committee for its share of the telephone bills for the above-described phones based on the Committee's actual use of those phones. Copies of

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the invoices sent to the Mondale For President Committee are attached hereto. Each invoice is accompanied by a detailed explanation of the manner in which the New Hampshire AFL-CIO calculated the Mondale For President Committee's share of the phone bill(s) for the phones used by the Committee. See Attachment F.

For the above-stated reasons, respondents respectfully request that the Commission take no further action in this matter and that the Commission close the file.

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for respondents
AFL-CIO, New Hampshire AFL-CIO,
Iowa Federation of Labor, AFL-CIO and
Alabama Labor Council, AFL-CIO

Enclosures

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Attachment A

COPE

Committee on Political Education

LANE KIRKLAND, Chairman THOMAS R. DONAHUE, Secretary-Treasurer JOHN PERKINS, Director

815 16TH STREET, N.W. ★ WASHINGTON, D.C. 20006 ★ (202) 637-5101

District of Columbia s.s.

AFFIDAVIT OF JOHN PERKINS

John Perkins, being duly sworn, deposes and says:

1. I am the Director of the AFL-CIO Committee on Political Education and have held that position at all times relevant to the period covered by the complaint in FEC MUR 1641.

2. The AFL-CIO has not furnished any goods or services to the Mondale for President Committee nor has the AFL-CIO permitted the Mondale For President Committee to use any of its facilities or equipment, including its telephones.

3. The foregoing is true and correct to the best of my knowledge.

John Perkins

John Perkins, Director
AFL-CIO COPE

DISTRICT OF COLUMBIA

Subscribed and sworn to before
me this 9TH day of April, 1984.

Howard L. Holman
NOTARY PUBLIC

My Commission Expires 3/28/89

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Attachment B

IOWA
IFL
FEDERATION OF LABOR, AFL-CIO

EXECUTIVE COUNCIL
JAMES J. WENGERT, *President*
MARK L. SMITH, *Secretary-Treasurer*
DONALD P. ROWEN, *Executive Vice President*
WILLIAM F. FENTON, *I.A.M. & A.W.*
LLOYD FREILINGER, *A.F.G.M.*
STEVE ELLIOTT, *A.F.S.C.M.E.*
LEO E. RUTH, *A.B.C.W.I.U.*
PAT MARSHALL, *I.B.E.W.*
GENE REDMON, *U.F.C.W.*
PERRY CHAPIN, *U.R.W.*
GLEN RAINS, *C.W.A.*
LEON DISKEY, *A.F.S.C.M.E.*

2 7 5 0 4 0 5 8

AFFIDAVIT OF JAMES J. WENGERT

James J. Wengert, being duly sworn, deposes and says:

1. I am the President of the Iowa Federation of Labor, AFL-CIO, and have held that position at all times relevant to the period covered by the complaint in FEC MUR 1641.

2. The Iowa Federation of Labor, AFL-CIO has not furnished any goods or services to the Mondale for President Committee, nor has the Iowa Federation of Labor, AFL-CIO ever permitted any of its facilities or equipment, including its telephones, to be used by the Mondale for President Committee.

3. The foregoing is true and correct to the best of my knowledge.

James J. Wengert
James J. Wengert, President

Subscribed and sworn to before me this 10th day of April, 1984.

Billie L. Ore
Notary Public in and for the state of Iowa.

2000 Walker Street, Suite A • Des Moines, Iowa 50317 • 515/262-9571

Attachment C

Alabama LABOR COUNCIL, AFL-CIO
231 WEST VALLEY AVENUE • (205) 942-5260
BIRMINGHAM, ALABAMA 35209

A. G. TRAMMELL, PRESIDENT
FRANK VICTORY, SECRETARY-TREASURER
JAMES ALBRIGHT, EXECUTIVE VICE-PRESIDENT

April 6, 1984

State of Alabama s.s.

AFFIDAVIT OF A. G. TRAMMELL

A. G. Trammell, being duly sworn, deposes and says:

1. I am President of the Alabama Labor Council, AFL-CIO, and have held that office at all times relevant to the period covered by the complaint in FEC MUR 1641.

2. The Alabama Labor Council, AFL-CIO, has not furnished any goods or services to the Mondale for President Committee nor has the Alabama Labor Council, AFL-CIO, ever permitted any of its facilities or equipment, including its telephones, to be used by the Mondale for President Committee.

3. The foregoing is true and correct to the best of my knowledge.

A G Trammell

A. G. Trammell, President

Subscribed and sworn to before me this 6th day of April, 1984.

Mary W. Dingleberry

Notary Public

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Attachment D

AFFIDAVIT OF CHARLES E. STOTT

State of Pennsylvania s.s.

Charles E. Stott, being duly sworn, deposes and says:

1. I am an AFL-CIO Field Representative for AFL-CIO Region VIII which includes the State of New Hampshire.

2. From October 10, 1983 until February 28, 1984, I was assigned to coordinate the New Hampshire AFL-CIO's political education and voter registration/get-out-the-vote activities aimed at AFL-CIO members and their families in connection with the New Hampshire Democratic presidential primary held on February 28, 1984.

3. In connection with its program of making internal communications relating to the New Hampshire primary to members and their families, the New Hampshire AFL-CIO installed and paid for nine telephones located in the offices of IBEW Local 490, Dover, New Hampshire, and two telephones located in the offices of Steelworkers Local 5173 in Laconia, New Hampshire.

4. In Dover, the New Hampshire AFL-CIO agreed to permit the Mondale for President Campaign, which was leasing space in the same offices, to use its nine telephones when those telephones were not being used by the AFL-CIO with the understanding that the Mondale for President Committee would reimburse the New Hampshire AFL-CIO at the usual and normal commercial rate for the Committee's actual use of those phones. The Mondale Committee and the New Hampshire AFL-CIO each kept separate records of how many hours a day each organization used the phones.

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5. In Laconia, the New Hampshire AFL-CIO permitted one of its two telephones to be used by the Mondale for President Campaign for six hours on election day, February 28, 1984, on the understanding that the Mondale for President Committee would reimburse the New Hampshire AFL-CIO at the usual and normal commercial rate for the Committee's actual use of that phone.

6. With the exception of the above described telephones in Dover and Laconia, the New Hampshire AFL-CIO did not permit any of its facilities or equipment, including telephones, to be used by the Mondale for President Committee nor did the New Hampshire AFL-CIO provide any goods or services to that Committee.

7. The foregoing is true and correct to the best of my knowledge.

Charles E. Stott

Charles E. Stott
AFL-CIO Field Representative

Subscribed and sworn to before me this 9th day of April 1984.

Barbara J. Kitner

BARBARA J. KITNER, NOTARY PUBLIC
GREEN TREE BORO, ALLEGHENY COUNTY
MY COMMISSION EXPIRES SEPT. 17, 1984
Member, Pennsylvania Association of Notaries

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AFFIDAVIT OF WILLIAM J. HOLAYTER

District of Columbia s.s.

William J. Holayter, being duly sworn, deposes and says:

1. I am the Director of the Legislative and Political Action Department of the International Association of Machinists and Aerospace Workers and have held that position at all times relevant to the period covered in FEC MUR 1641.

2. Following the AFL-CIO's endorsement of Walter Mondale, I was interviewed by a reporter from U.S. News & World Report about the impact of that endorsement. During the interview, I told the reporter that as a result of the AFL-CIO endorsement: "our people may wind up calling on Communications Workers members in some states and their people may call on our members in other states." What I meant by that statement was that I.A.M. members working as volunteers on AFL-CIO phone banks would call members of other AFL-CIO affiliated unions, including members of the Communications Workers, and vice versa, since those phone banks would be calling all AFL-CIO members and their families.

3. The foregoing is true and correct to the best of my knowledge.

William J. Holayter
Director, Legislative and
Political Action Department

Subscribed and sworn to before me this tenth day of April, 1984

James H. Thomas, Jr.
Notary Public D.C.
My Commission Expires 1-1-89

8504054260 1

NEW HAMPSHIRE AFL-CIO

Attachment F

President
HARLAND EATON
366 Huse Rd
Manchester, NH 03103
603-623-1418

Executive Vice President
MARK S MACKENZIE
465 Beacon St.
Manchester, NH 03103
603-668-7863

Secretary-Treasurer
SAVERIO M. GIAMBALVO
P O Box 1305
Portsmouth, NH 03801
603-431-7155

COPE
JUDITH CAMIRE, V.I.P. Dir.
366 Huse Rd
Manchester, NH 03103
603-669-5243

VICE PRESIDENTS
Gerard K. Aikens
James Anderson
Alden G. Boardman
James G. Casey
Kenneth Clarke
Keith Cutting
Joseph M. Day
Edmund Desautel
Fred Ebol
Roger Gagnon
James Gray
E. Vincent Hall
Tom Marsh
John Mendolusky
Lorraine Palmer
Jack Payne
Ronald Powers
Barbara Stott

April 9, 1984

Ms. Christine Brewer
Finance Division
Mondale For President Committee
2201 Wisconsin Ave.,N.W.
Washington, D.C. 20007

Dear Ms. Brewer:

Enclosed are our invoices for the Mondale For President Committee's use of the New Hampshire AFL-CIO's telephones in Dover, New Hampshire, and Laconia, New Hampshire.

Attached to each invoice is a detailed explanation of how the Committee's share of the telephone charges was calculated. Please contact me at the above number if you have any questions about the invoices or our allocation of the telephone charges.

Prompt payment of the amounts stated in the invoices would be greatly appreciated.

Sincerely,

Saverio M. Giambalvo
Secretary-Treasurer

8502960

NEW HAMPSHIRE AFL-CIO

President
HARLAND EATON
366 Huse Rd.
Manchester, NH 03103
603-623-1418

Executive Vice President
MARK S. MACKENZIE
465 Beacon St.
Manchester, NH 03103
603-668-7863

Secretary-Treasurer
SAVERIO M. GIAMBALVO
P.O. Box 1305
Portsmouth, NH 03801
603-431-7155

COPE
JUDITH CAMIRE, V.I.P. Dir.
366 Huse Rd.
Manchester, NH 03103
603-669-5243

April 9, 1984

INVOICE

VICE PRESIDENTS
Gerald K. Aikens
James Anderson
Alden G. Boardman
James G. Casey
Kenneth Clarke
Keith Cutting
Joseph M. Day
Edmund Desautel
Fred Ebol
Roger Gagnon
James Gray
E. Vincent Hall
Tom Marsh
John Mendolusky
Lorraine Palmer
Jack Payne
Donald Powers
Barbara Stott

For Mondale For President Committee's use of New Hampshire AFL-CIO telephones located in Dover, New Hampshire, over period of 12/7/83 through 2/28/84.

Total Charge to Mondale For President Committee = $3,981.36

Please remit to New Hampshire AFL-CIO, P. O. Box 1305, Portsmouth, New Hampshire, 03801. Attention: Saverio M. Giambalvo, Secretary-Treasurer

Explanation and Allocation of Charges - Dover, New Hampshire Telephones

Total use figures for period 12/7/83 through 2/28/84

Mondale For President operator hours = 3227.5

New Hampshire AFL-CIO operator hours = 953.5

Total operator hours = 4181

Percentages based on actual use figures

Mondale For President Committee $\frac{3227.5}{4181}$ = 77%

New Hampshire AFL-CIO $\frac{953.5}{4181}$ = 23%

Allocation of Phone Bill Charges for period of 12/7/83 through 2/28/84

Monthly service charges:

Total monthly service charges = $1227.67
77% of 1227.67 = $945.31 Mondale For President Committee share

23% of 1227.67 = $282.36 New Hampshire AFL-CIO share

Installation Costs

Total installation costs = $328.55
77% of 328.55 = $252.98 Mondale For President Committee share

23% of 328.55 = $75.57 New Hampshire AFL-CIO share

For Mondale For President Committee's use of New Hampshires AFL-CIO telephones located in Dover, New Hampshire over period of 13/7/83 through 2/28/84.

Tax

Total tax = $92.45

77% of $92.45 = $71.19 Mondale For President Committee share

23% of $92.45 = $21.26 New Hampshire AFL-CIO share

AT&T information charges

Total charge = $42.27

77% of $42.27 = $32.55 Mondale For President Committee share

23% of $42.27 = $ 9.72 New Hampshire AFL-CIO share

AT&T communication charges (long distance)

Total charge = $832.66 100% billed to Mondale For President Committee */

Itemized calls charges (toll calls - New England Bell)

total charges = $1,846.72 100% billed to Mondale for President Committee**/

Total charges billed to Mondale For President Committee = $3,981.36

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*/ New Hampshire AFL-CIO operators were instructed not to make any long distance calls. Therefore all long distance charges are being billed to Mondale For President Committee

**/New Hampshire AFL-CIO operators were instructed not to make any toll calls. Therefore all toll call charges are being billed to Mondale For President Committee

NEW HAMPSHIRE AFL-CIO

President
HARLAND EATON
366 Huse Rd.
Manchester, NH 03103
603-623-1418

Executive Vice President
MARK S MACKENZIE
465 Beacon St
Manchester, NH 03103
603-668-7863

Secretary-Treasurer
SAVERIO M. GIAMBALVO
P.O. Box 1305
Portsmouth, NH 03801
603-431-7155

COPE
JUDITH CAMIRE, V.I.P Dir.
366 Huse Rd
Manchester, NH 03103
603-669-5243

April 9, 1984

VICE PRESIDENTS
Gerald K. Aikens
James Anderson
Alden G. Boardman
James G. Casey
Kenneth Clarke
Kelly Cutting
Joseph M. Day
Edmund Desautel
Fred Epol
Roger Gagnon
James Gray
E. Vincent Hall
Tom Marsh
John Mendolusky
Lorraine Palmer
Jack Payne
Charles Powers
Barbara Stott

8504269

INVOICE

For Mondale For President Committee's use of New Hampshire AFL-CIO telephone in Laconia, New Hampshire, for six hours on February 28, 1984:

Total Charge to Mondale For President Committee = $ 5.28

Please remit to New Hampshire AFL-CIO, P.O. Box 1305, Portsmouth, N.H. 03801
Attention: Saverio M. Giambalvo, Secretary-Treasurer

Explanation and Allocation of charges- Laconia Telephone

Total bill for telephone used by Mondale For President on 2/28/84: $38.75

Breakdown of phone charges:

Monthly service charge = $32.12

Tax $ 1.13

Itemized charges(toll calls) $4.38

AT&T charges = none

Allocation of charges:

$32.12 monthly service charge ÷ 28 = $1.14 daily service charge

$ 1.14 x .75(six out of 8 hours of use) = $.86 Mondale For President share of monthly service charge

$ 1.13 tax divided by 28 = $.04 Mondale For President share of tax

$ 4.38 = toll calls made on 2/28/84. 100% charged to Mondale for President Committee */

Total charge to Mondale For President Committee = $5.28

*/ New Hampshire AFL-CIO operators were instructed to make no toll calls or long distance calls.

Mondale for President
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007
Telephone: 202-625-1600

Gen. Coun. 2101

MONDALE

APR 11 P5:42

MUR 1641
Kramer

April 11, 1984

Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

RE: MUR 1641

Dear Mr. Steele:

This letter is the response of the Mondale for President Committee, Inc. ("the Committee") to the complaint filed with the Commission by Ralph Martin (Bud) Hettinga on March 6, 1984.1/ The complaint alleges that the Committee has received contributions from labor organizations which are prohibited by 2 U.S.C. Section 441b. Complainant's allegation is not based upon any evidence but rather is based entirely on news articles which essentially quote spokesmen for rival political campaigns.

Based on these news articles, Mr. Hettinga contends that the Committee has not been adequately reimbursing labor organizations for the use of labor office space and telephones. These articles are either inaccurate or do not reflect any violation of applicable law or regulations. Moreover, the use of unsubstantiated news articles in this manner fails to meet the requirements of Commission regulations for an acceptable complaint, as reflected in Commission Memorandum No. 663 of November 5, 1979.

1/ Other named respondents are the AFL-CIO, New Hampshire State Labor Council, Iowa Federation of Labor, Alabama Labor Council, National Education Association, NEA-New Hampshire, Iowa State Education Association and Alabama Education Association.

Paid for by Mondale for President, Inc.

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Accordingly, on the basis of the Committee response set forth herein, this complaint should be dismissed (1) because there is no reason to believe a violation of 2 U.S.C. Section 441b has occurred since the Committee is paying the normal and usual rental charge for all facilities and equipment leased from labor organizations; or (2) because the newspaper articles upon which the complaint is based are not well-documented or substantial, and therefore, provide an insufficient basis for the initiation of an enforcement action.

I. Legal Framework

The Committee may utilize equipment or facilities owned by a labor organization under 11 C.F.R. Section 114.9(d). If it does so, the Committee is to reimburse the labor organization for the normal and usual charge within a commercially reasonable time.2/ The normal and usual charge for goods is defined as "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution..." 11 C.F.R. Section 100.7(a)(1)(iii)(B).

In applying these regulations to the use of office space and telephones owned by labor organizations, the Committee understands that in general these regulations call for:

(1) payment for the fair market retail value of any such office space, including office equipment and furniture used, as well as payment of a proportional share of other costs such as utilities unless included in the calculation for rent; and

2/ The Committee's Use Agreement, which is explained and set forth infra at 3, provides that payment will be made within a commercially reasonable time. The Complaint makes no allegation to the contrary.

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(2) reimbursement of a proportional cost of any such telephones used, based on the monthly service charges plus any actual additional charges, such as long-distance costs incurred by the Committee, as well as reimbursement for use of space, utilities, and equipment incidental to the use of the phones.

II. Procedures for Committee Use of Labor Facilities and Equipment

The Committee has established procedures for its use of union facilities to ensure compliance with Commission requirements. In October, 1983, before any labor-owned facilities or equipment were utilized, the Committee developed a form entitled Agreement for the Use of Labor Organization Facilities and Equipment ("Use Agreement") (Exhibit A). The form Use Agreement provides that:

> The labor organization agrees to invoice the Committee for the actual use of the facilities and equipment set forth above in an amount based on the normal and usual rental charge for such facilities and equipment in this community and including any actual telephone charges incurred by the Committee. The invoice will also include billing for the cost of any supplies provided to the Committee * * * The Committee agrees to reimburse the labor organization for use of the labor organization's facilities within a commercially reasonable time.

Funds were specifically budgeted by the Committee to reimburse labor organizations for the use of facilities and equipment. Copies of the Use Agreements were provided to Committee employees in the field who were authorized to make arrangements for the use of labor facilities and equipment. The field employees were instructed to obtain signed Use Agreements for all such arrangements. In some instances these arrangements were made directly with union locals and in others they were made with

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representatives of the international unions. While no Use Agreements were entered into with the AFL-CIO or the NEA at the national level, a few of the Agreements were entered into with the AFL-CIO state federations or with the NEA state affiliates.

After the Use Agreements were executed, Committee field employees forwarded them to the national headquarters in Washington, D.C. Under this procedure, the Committee retains the Use Agreements and matches them to the invoices as they are received from the labor unions and prepared for payment. This procedure insures that the Committee has information to make inquiries and request invoices in the event they are not received within a reasonable time.

III. Use of Telephones

Contrary to Complainant's assertion, the Committee is not paying 10 cents per telephone call but rather is paying the normal and usual charge for the use of telephones. In order to calculate the normal and usual charge, in Iowa and New Hampshire 3/ the procedure was for the Committee to keep logs recording its use of the phone banks. (A sample log is attached as Exhibit B.) These logs reflect the number of hours each phone was used and copies of the logs were provided by the Committee to the appropriate labor organization officials so that the bills could be prepared.

3/ Although the complaint names the Alabama Labor Council and the Alabama Education Association, the news excerpts upon which the complaint is based make no reference to any labor facilities in Alabama used by the Committee. In fact, there were no such arrangements. (Exhibit C)

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In accordance with Commission requirements, the bills generally are calculated by the labor organizations in the following manner:

> Phone bank with 10 phones.
> For the month, the total number of hours each phone was used each day by the campaign is taken from the logs and added giving total hours for the month (e.g., Day 1 -- 2 phones for 4 hours and 8 phones for 2 hours is 24 phone hours). The same calculation is applied to the labor use.
> Total campaign hours plus total labor hours are added to give total use.
> Campaign 750 hours
> Labor 1000 hours
> Total use 1750 hours
> Campaign use is $\frac{750}{1750} = 43\%$

The percentage is applied to all flat rate charges such as regular monthly service charges and flat rate WATS line charges. In addition, where long distance toll calls were made, the bills are reviewed and compared to the logs to determine the actual charges attributable to the Committee and to the labor organizations.

Thus, any fixed figure reflecting the charge per call such as those suggested by rival campaigns - whether it is 10 cents or 30 cents - is meaningless. As can be seen, the charge per call depends on a variety of factors, such as the volume of calls made and the amount of long distance charges.

The Committee has already received initial invoices from labor organizations for phone use in Iowa and New Hampshire totalling over $14,500, and has paid bills in the amount of $7,662.48. At this time, it is our understanding that additional invoices are being prepared for phone bills recently received in Iowa and in New Hampshire and for the use of space and other equipment incidental to the use of phones.

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The Committee's reimbursement does not include amounts for deposits or installation charges. This is in accordance with FEC opinions and rulings dealing with the use of union and corporate telephones. These decisions have required campaigns to reimburse on the basis of monthly service fees plus additional actual charges. See AO 1978-34, OC 1976-30, MURs 1314(80), 1349(81), 1369(81). In none of these matters has there been any requirement that a campaign pay a portion of the deposit or installation fee.4/

IV. Use of Office Space

The complaint further alleges that the campaign did not pay the full fair market value for office space leased from unions. The Committee leased headquarters space from labor organizations in only nine locations in Iowa and New Hampshire. The Committee paid fair market value for the space it used and there are no facts put forward in the complaint to the contrary. In fifteen locations in Iowa and New Hampshire, the Committee and a labor

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4/ This would be comparable to requiring a Committee which makes use of furniture to pay the cost of moving the furniture into the office or requiring that utility cost calculations include the original costs of bringing the electricity into the building. The Committee and the labor organizations are utilizing a reasonable method to calculate the normal and usual charge which should be accepted by the Commission in the absence of any other specific method required by regulation. The actual amounts billed and paid by the Committee may be reviewed by the Commission in the course of the audit conducted pursuant to 11 C.F.R. Section 9038. As to deposits, the Committee would not have had to put up cash deposits in any event since it has a Letter of Credit under a National Phone Payment Agreement to cover all deposits for Committee phones.

organization each entered into separate leases with a landlord for space in the same building.5/

It is apparently these fifteen locations where the Committee and a labor organization made use of adjacent space that are referred to in the news articles suggesting that the Committee paid half the normal rent. While it is accurate that the Committee paid half the rent, these articles are either mistaken or misleading in that they do not explain that the Committee only used half the space. These were arms length commercial transactions in which the rent for the space was determined by the landlord. The Committee paid rent to the landlord for its share of the space and the labor organization paid rent to the landlord for its share. Section 441b and the Part 114 regulations are not relevant since the facilities were not owned by a labor organization. Nothing in the Act or regulations prohibits the establishment of adjacent facilities. Cf. AO 1978-67. In each location, the Committee used its space as a headquarters and the labor organization used its space for phone banks.

V. Committee Expenditures for Use of Office Space and Telephones

Although the real issue is that the Committee paid the normal and usual charge for labor facilities and equipment, many of the newspaper statements made by other campaign personnel suggest that the Committee may not have had to spend as much overall as other campaigns for office and phones because of its

5/ These 24 locations do not include Mondale headquarters where no labor organization had adjacent space, or other labor facilities which Committee staff used only at night and on weekends for phoning pursuant to a use agreement.

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lease arrangements with labor. Such statements clearly were based on conjecture by individuals who had no involvement in or knowledge of the arrangements made by the campaign for payment of these expenses since no reports filed with the Commission support such a conclusion. Even a cursory review of the disclosure reports would have reflected the error of these assertions.

Comparative rent and phone figures for the Committee (for its own phones and office space) and the Glenn and Hart campaigns are attached as Exhibit E. These figures obtained from FEC disclosure reports indicate that for the Committee's own phones -- not including the labor phones -- the Committee paid: $59,723.53 (telephones), $31,622 (deposit - National Phone Payment Agreement), and $7,281.27 (MCI) in New Hampshire; and $66,088.95 (telephones), $46,061 (NPPA deposits) and 3,367.59 (MCI) in Iowa.

The Committee's payments are far in excess of the amounts paid either by the Glenn or Hart campaign. Glenn reports reflect only $25,383.40 and Hart reports $16,529.34 paid for New Hampshire telephones as compared to the Committee's $59,723.53. For New Hampshire rent, Glenn reports show $9,788.68 and Hart reports show $9,495.09 as compared to $21,140.87 for the Committee. The Iowa figures reflect similar disparities. In addition to these substantial amounts for Committee telephones, the Committee is paying the normal and usual charges as set forth previously for the labor phones utilized.

VI. Complaints Based Upon Newspaper Articles

This complaint was originally rejected by the Office of General Counsel because it failed to meet the statutory require-

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ment that a complaint be sworn to. Although the notary's certification was subsequently modified to include the words "sworn to," there is no suggestion that this complaint is founded in whole or in part on any personal knowledge of the complainant.

On November 15, 1979, the Commission adopted a policy set forth in Commission Memorandum No. 663 (the "policy") concerning the opening of compliance actions on the basis of newspaper accounts. Since complainant has not asserted any personal knowledge of the facts surrounding the Committee's leasing of labor facilities and equipment, and has not submitted any evidence, this complaint must meet the standards established by the Commission in its policy on newspaper articles.

That policy requires a news account to be well-documented, substantial, and to meet all of the requirements of a complaint in order to constitute a sufficient basis for an enforcement action. Policy at 2. Under the regulations, a complaint must set forth a "clear and concise statement of the acts which are alleged to constitute a violation." 11 C.F.R. Section 111.2(b)(2). Where the only statement of facts is that contained in a news report, the Commission noted that an article must be "substantive in its statement of fact." Policy at 3. By contrast, the news accounts upon which this complaint are based are not well-documented or substantial, and do not set forth a substantive statement of facts.

Complainant has excerpted nine passages from news accounts which he asserts indicate that the Committee has received goods and services at below-market rates. Other than repeating gen-

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eralized quotes from rival campaigns alleging below-market rates, none of these excerpts provide any documentation or identification of the source of the information. Most of the excerpts do not even state any facts which, even if they were accurate, would constitute a violation of the Act. Moreover, where the excerpts do state specific facts which would constitute a violation, those facts are inaccurate. It is precisely because of these types of undocumented accusations and inaccurate factual assertions that the Commission adopted a policy of careful scrutiny of complaints based solely on newspaper articles. A review of the excerpts relied upon by complainant demonstrates the insufficiency of the complaint.

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VII. News Excerpts Relied Upon by Complainant

Set forth below are each of the excerpts relied upon by complainant and a point by point response to each of those excerpts:

(1) The Washington Post February 10, 1984

> In Iowa, when Sens. John Glenn (D-Ohio), Alan Cranston (D-Calif.) and Gary Hart (D-Colo.) ordered telephones for their campaign headquarters, they had to put down deposits ranging from $60 to $400 for each phone. Glenn paid $1,400 for four phones in Davenport, Cranston put down $1,600 for six phones in Davenport and Hart paid $500 for one phone in Iowa City.
>
> But Walter F. Mondale has 16 phones in his Davenport headquarters above the Scott County Democratic Central Committee -- and his campaign did not have to make a deposit. He also pays a cut-rate $125 a month rent for his modest headquarters -- half the normal rent.
>
> The United Food and Commercial Union picks up the rest of the tab and rents the phones. Mondale, the front-runner for the Democratic presidential nomination, was endorsed by the AFL-CIO and National Education Association and has similar cost-sharing arrangements with the labor groups for phones and headquarters space in 19 Iowa cities.

They charge that these arrangements are enabling Mondale to exceed the $660,000 federal spending ceiling in Iowa and the New Hampshire limit of $391,400 by tens of thousands of dollars.

The Mondale campaign has agreed to a "lease-back" arrangement under which it pays the unions a total of $5,000 for the 19 locations plus 10 cents for each call on the union phones.

Phones traditionally are one of the major expenses for a large campaign. Cranston Iowa coordinator John Law said that when deposit and service fees are considered it cost his campaign between 30 to 50 cents per call.

Response:

These excerpts do not set forth a violation of the Act. The facts, to the extent they are accurate, merely describe an arrangement of adjacent office space and use of union phones pursuant to an agreement for reimbursement. The assertion that the Committee is paying half the normal rent at a cut-rate is unfounded. The Committee paid half the rent only because it was using half the space. The other space was paid for and used by a labor organization. Neither the Act nor the regulations prohibit the Committee from dividing space with another entity, provided the Committee pays for its share. In fact, it was not the UFCW, but rather the Quad City Federation of Labor AFL-CIO from whom the Committee leased space. The Committee paid $250 in rent.

The labor phones referred to in the article were installed by a labor organization to contact its members. When those phones were not being used to contact labor organization members, the Committee used them pursuant to a Use Agreement in accordance with Committee procedures discussed previously. The Act and regulations expressly allow a campaign to use union phones provided that reimbursement for the normal and usual charge is made

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within a commercially reasonable time. The method for calculating the bills is set forth supra at 4, 5.

The excerpt concerning the $5000 rental figure and the 10 cent per call charge is completely erroneous. The news story does not indicate a source for the information. The Committee entered into a Use Agreement separately in each location in which it was using labor space and phones. There were no overall arrangements made for offices for any flat fee. Moreover, as discussed above, the normal and usual charge was paid for all facilities and equipment. Even if the amount of 30 to 50 cents per call quoted from Senator Cranston's Iowa coordinator reflects cost, it is a meaningless figure for comparison, since the charge per call depends on a variety of factors, such as the number of long distance calls and the volume of calls made.

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(2) The Wall Street Journal February 10, 1984

> For 10 days in January, 10 local union members, each paid $3.50 an hour in union funds, burned up the lines in an effort to identify Mondale supporters, actual and potential, so they later could be urged to participate in the caucuses. Information from this phone canvassing, mixed with the results of 18 other labor phone-bank operations across the state, was transmitted to AFL-CIO headquarters in Washington, which is spearheading labor's effort for Mr. Mondale
>
> When not being worked by union people on Mr. Mondale's behalf, the phones are leased to the campaign for use by other Mondale supporters. "We could sure use a phone bank like that, " says Stephen Doak, the local coordinator for the Glenn campaign. "We can't afford it.

Response:

These excerpts do not set forth a violation of the Act. The first paragraph describes permissible labor communication with its members. The second paragraph describes the Committee's

leasing and payment for labor phones, which was in accordance with the Act and regulations, described in our response to excerpt #1.

(3) The New York Times February 14, 1984

> It is this vast organizational effort, which an aide to Senator John Glenn estimated to be worth more than $1 million in Iowa alone, that has caused other candidates to accuse Mr. Mondale of being in "labor's pocket." Indeed, Mr. Glenn has charged that the Mondale campaign violated Federal Election Commission rules by permitting labor to pay for some of its Iowa campaign headquarters and by using labor phones without full reimbursement, allegations denied by the Mondale staff.

Response:

This excerpt repeats general allegations made by the Glenn campaign without any supporting facts.

(4) The Wall Street Journal February 13, 1984

> DES MOINES, Iowa -- Officials of Sen. John Glenn's presidential campaign contended that former Vice President Walter Mondale violated federal election law in connection with the support he has received from organized labor.
>
> Basically, Mr. White said, labor groups have provided phone banks and office space to the Mondale campaign at costs below fair-market value....

Response:

This excerpt also repeats general allegations made by the Glenn campaign without any supporting facts. Moreover, in the same passage, the article expressly acknowledges that William White, a Glenn aide, "declined to be specific" about his charges. That portion of the article was conveniently omitted by the complainant in submitting his edited version of the story.

(5) The Christian Science Monitor February 14, 1984

> Mondale's own staff in Iowa helped to create all the excitement about labor's help for his campaign.

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Mondale's state coordinator, Joe Trippi, told reporters that the campaign was using union telephones across the state at a bargain price of 10 cents a call. Mondale was also said to be leasing union halls for campaign offices across the state for $269 apiece, a price that the other campaigns said did not reflect the true value.

Mr. Vitali of the Glenn campaign saw the 10-cent-a-call figure in the newspapers and fumed. His own campaign must spend 20 to 50 cents a call to reach voters.

Further, most of the campaigns must put up hefty deposits just to get telephone lines installed. Glenn reportedly had to put up $1,400 just to get four lines installed in Davenport; Alan Cranston had to deposit $1,600 to have six lines opened in the same city; and Hart was required to put down $500 to have one line installed in Iowa City.

Mondale's campaign can just use union telephones that are already in place, and avoid the usual deposit.

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Response:

These excerpts are full of inaccuracies. The Committee's procedure for paying bills for labor facilities and equipment is set forth in Sections II-IV. As reflected in the attached affidavit, the Committee's Iowa coordinator, Joe Trippi, had no responsibility or involvement in billing or paying for the use of any equipment or facilities utilized by the Committee. (Exhibit D)

There are no facts in these excerpts which set forth a violation of the Act. The Committee paid all costs associated with the telephones it installed in its headquarters. As to the question of deposits, the Committee, like the Glenn campaign, has a national phone payment agreement through which all Committee phones are ordered by and billed to the national headquarters. All deposits are handled through a letter of credit secured by a Committee account. (See Exhibit E.) When labor phones were

used, it was pursuant to an agreement to pay the normal and usual charge.

The figure of "$269 apiece" for rent for each headquarters is inaccurate and groundless, as no source is given for this improbable figure. In fact, the Committee arrangements for the lease of office space were made separately in each location in Iowa with different landlords. In most instances, the space was leased from commercial landlords who are not labor organizations. In other locations, space was leased from a labor organization in union halls or other facilities. In all instances, leases were signed with a rent based on the fair market value of the space in that location. There are no facts supporting the allegation that the amounts paid by the Committee were not fair market value. No figures are given which are said to represent fair market value for any different amount than that paid by the Committee in any location in Iowa or New Hampshire.

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(6) The Washington Post December 14, 1983

DES MOINES --

Also last weekend, the American Federation of State, County, and Municipal Employes and several other unions were gearing up phone banks, with a total of 189 phones across the state.

"Once, they're up, we'll be making 57,000 phone call attempts a week," said Will Robinson of AFSCME, Mondale's state labor liaison.

Response:

This excerpt describes labor communication with its members and does not set forth a violation of the Act.

Will Robinson was an employee of AFSCME when he was interviewed by the Post for this article in early December. Mr.

Robinson was subsequently hired by the Committee and paid from the Committee payroll for his services as the Committee's Iowa labor liaison. (Exhibit F)

(7) The Washington Post February 14, 1984

BIRMINGHAM, Ala. --

The state's AFL-CIO unions, with a dues-paying membership of about 190,000, plus about 35,000 laid off members, are mounting their most ambitious and unified effort, their leaders say. It is paralleled by the activity of the 53,000-member Alabama affiliate of the National Educaton Association, the giant teachers union.

Inez Davis and the other 17 callers, unemployed union members being paid for their services, completed 14,000 calls in the first 10 days of the phone bank here, one of 16 such operations statewide that have a total of 116 paid operators and about two dozen volunteers.

Response:

These excerpts describe permissible labor communication with members expressly allowed under the Act. These excerpts contain the only reference to Alabama in the complaint. There is no mention of any arrangements for office space or telephones with the Committee.

(8) U.S. News & World Report October 17, 1983

HOLLYWOOD, Fla. --

In working together during the primaries, AFL-CIO unions for the first time will come into active day-in, day-out contact with each other's members for a common cause -- getting Mondale the nomination.

In mobilizing support for Mondale, for example, one union's telephone canvassers will be allowed for the first time to provide direct help to another union that needs to reach its members.

"Our people may wind up calling on Communications Workers members in some states, and their people may call our members in other states," says Holayter. "That's unheard of. We've never done anything like this before."

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Response :

These excerpts describe permissible labor communications with members and do not describe a violation of the Act.

(9) NBC TV Today Show February 9, 1984

KEN BODE -- This year the Glenn campaign is watching Mondale's spending very closely.

PAUL SHONE -- Glenn's New Hampshire manager -- We have a computer here that keeps track of that. I have a Budget Director here that keeps track of that.

KEN BODE -- Not only does he keep Glenn's budget, but he fiddles around with the Mondale budget as well. It's known, for example that Mondale spent $31,203 on rental cars in Massachusetts. In New Hampshire, $81.40. Tricky bookkeeping?

Then there's the matter of telephones. Labor has endorsed Mondale and is making "independent expenditures" on his behalf.

So, how many phones do they have in the state?

CHARLES CAMPION -- Mondale's New Hampshire Coordinator -- I'm not sure of the exact number to tell you the truth. They have them, but they have phone banks and phones that they have in existing offices.

KEN BODE -- You don't know how many they have?

CHARLES CAMPION I think it's over 100, but I'm not sure exactly the number to tell you the truth.

KEN BODE And who deals with labor for the Mondale campaign?

CHARLES CAMPION Well, Charlie Start is the AFL-CIO employee here. I talk to them and then he and I talk back and forth you know. But he really has their own program going.

KEN BODE The Mondale people leaseback the union phones, thereby saving installation costs.

PAUL SHONE -- Glenn's campaign manager -- On a leaseback arrangement the question is whether they are paying fair market value for the phones which according to the law is what needs to be done or if you are paying for the cost of phones. If you are paying for the cost of phones it is not according to the rules.

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KEN BODE -- How much do you pay them?

CHARLES CAMPION -- I'm not sure, we submit that to Washington, who pays it.

KEN BODE -- Okay, let's check Iowa. Labor claims they have phones in 19 locations, 250 in all. These are labor phones operating in Sioux City.

On Monday night the Mondale campaign leased these phones. They paid 10 cents a call. That saved half the cost over a payphone. It also saves the Mondale folks the cost of installing their own phones. On Tuesday night, while the Mondale people worked downstairs in their offices, labor volunteers took over the phones.

In 12 additional locations including here in Cedar Rapids, Mondale leased headquarter's space from unions.

Response:

These excerpts do not contain any facts as to New Hampshire which set forth a violation of the Act. In New Hampshire, Charles Campion, the Committee's state coordinator, had no responsibility for the billing or payment for labor phones used by the Committee. (Exhibit G)

The facts in this transcript concerning the basis for reimbursement for phones in Iowa are false, as set forth in our response to excerpt #1 and #5. It is also inaccurate that the Committee leased space from unions in 13 locations in Iowa. In fact, space was leased directly from a labor organization in only 9 locations total in both Iowa and New Hampshire.

VIII. Conclusion

The information set forth in this response demonstrates the groundlessness of Complainant's three allegations by showing that (1) the Committee is paying the normal and usual charge for the labor phones which it used; (2) the Committee paid telephone deposits and installation charges on its own phones and is paying

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the normal and usual charge for the labor phones which it leased; and (3) the Committee paid full fair market value for the labor office space it leased.

The Committee performed extensive research on all Commission regulations, opinions and enforcement actions dealing with the use of space and phones owned by other entities on the basis of this research, the Committee then drafted a use agreement and established procedures for reimbursement. Thus, the Committee has taken every possible step to ensure compliance with the Act. There is nothing new or unique about campaign use of phone banks owned by other entities. What is unusual in this case is the special care taken by the Committee to keep track of, pay for and report the use of every such phone bank and office space.

For the foregoing reasons the Committee respectfully requests that the Commission dismiss this complaint as insufficient or, in the alternative, find no reason to believe a violation of the Act has occurred and close its file in this matter.

Respectfully submitted,

David M. Ifshin
General Counsel

Carolyn U. Oliphant
Deputy General Counsel

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EXHIBIT A

AGREEMENT FOR THE USE OF LABOR ORGANIZATION FACILITIES AND EQUIPMENT

1. The Mondale for President Campaign Committee ("Committee") and _____ ("labor organization") agree this _____ day of _____, 198___ that for the consideration set forth below, the Committee will use the following facilities and equipment of the labor organization on the dates indicated:

2. Dates of use: From _____ to _____

3. Location of facilities to be used: _____

_____

4. Description of facilities and equipment:

_____

_____

5. Other: _____

The labor organization agrees to invoice the Committee for the actual use of the facilities and equipment set forth above in an amount based on the normal and usual rental charge for such facilities and equipment in this community and including any actual telephone charges incurred by the Committee. The invoice will also include billing for the cost of any supplies provided to the Committee. The labor organization will promptly provide its invoice to the Committee, 2201 Wisconsin Avenue, N.W., Washington, D.C. 20007.

The Committee agrees to reimburse the labor organization for use of the labor organization's facilities within a commercially reasonable time.

The undersigned Committee representative is authorized to sign this Agreement on behalf of the Committee.

6. Signed: _____ 10. _____

7. _____ 11. _____
Name Name

8. _____ 12. _____
Position Address

9. _____ Mondale for President
Labor Organization Campaign Committee

13. Dated _____

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# of phones

IBEW 46 Third St - Manchester

EXHIBIT B

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	
	7 hrs	7 hrs	7 hrs	7 hrs	7 hrs	7 hrs	7 hrs	7 hrs	7 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	10
	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	7
	2 hrs	2 hrs	2 hrs	2 hrs																8
	2 hrs	2 hrs	2 hrs	2 hrs																8
	2 hrs	2 hrs	2 hrs	2 hrs																8
	2 hrs	2 hrs	2 hrs	2 hrs																8
	7 hrs	7 hrs	7 hrs	7 hrs	7 hrs	7 hrs	7 hrs	7 hrs	7 hrs	5 hrs	5 hrs	5 hrs	5 hrs	5 hrs	5 hrs	5 hrs	5 hrs	5 hrs	5 hrs	113
	2 hrs	2 hrs	2 hrs	2 hrs	2 hrs	2 hrs	2 hrs	2 hrs	2 hrs	3 hrs	3 hrs	3 hrs	3 hrs	3 hrs	3 hrs	3 hrs	3 hrs	3 hrs	3 hrs	48
	9 hrs	9 hrs	9 hrs	9 hrs	9 hrs	9 hrs	9 hrs	9 hrs	9 hrs	9 hrs	9 hrs	9 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	4 hrs	25
	2 hrs	2 hrs	2 hrs																	
	2	2	2																	
	41 hrs	41 hrs	41 hrs	29 hrs	29 hrs	29 hrs	29 hrs	29 hrs	25 hrs	25 hrs	25 hrs	20 hrs	20 hrs	20 hrs	20 hrs	20 hrs	20 hrs	20 hrs	20 hrs	

Manchester

Preliminary total

520 hrs

IBEW

Exhibit C

Affidavit of Scott Davis

Scott Davis, being duly sworn, deposes and says:

I served as Alabama state coordinator for the Mondale for President Committee from October 1, 1983 to March 15, 1984.

To my knowledge, the Mondale for President Committee did not enter into any use agreements with any labor organizations for the use of their facilities in Alabama, nor did we make use of any labor facilities or equipment in Alabama.

Rather, the campaign entered into regular commercial leases with non-labor landlords for the use of office space. The campaign also installed its own phone lines and rented other office equipment from commercial vendors.

Signed _____

Date 4/6/84

The foregoing affidavit was subscribed and sworn to before me this 6th day of April, 1984, by Scott Davis.

Mark O. Leavitt
Notary Public

My Commission expires on September 3, 1985.

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EXHIBIT D

STATEMENT OF CHRISTINE BREWER

P. Christine Brewer, being duly sworn, deposes and says:

I am the Comptroller/Assistant Treasurer of the Mondale for President Committee, Inc. In that capacity, I am responsible for exercising best efforts to insure that all invoices received by the Committee reflect the appropriate amounts due and are paid within a commercially reasonable time.

No Committee field employees have any responsibility for determining the amount of reimbursement or paying any obligations incurred by the Committee.

I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief. 28 U.S.C. Section 1746.

P. Christine Brewer

Executed on April 11, 1984.

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EXHIBIT E

NON-LABOR OFFICE SPACE AND TELEPHONE EXPENDITURES IN IOWA AND NEW HAMPSHIRE [1]

NEW HAMPSHIRE

		MONDALE [5]	GLENN	HART
Phones [2]		$59,723.53	$25,383.40	$16,529.34
	NPPA [3]	31,622.00		
	MCI [4]	7,281.27		
Rent		21,140.87	9,788.68	9,995.09

IOWA

		MONDALE	GLENN	HART
Phones		$66,088.95	$49,228.00	$38,575.13
	NPPA:	46,061.00		
	MCI:	3,367.59		
Rent		23,362.17	15,397.94	5,481.79

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FOOTNOTES

1/ These expenditure amounts were obtained from FEC disclosure reports for all the candidates. In some instances, disclosure was incomplete or it was not apparent whether the expenditures were made in New Hampshire, Iowa, or in other states. Thus, the numbers should be treated as approximate amounts. The expenditures for Mondale should be the most accurate since the FEC report amounts were checked against the Committee's internal records.

The expenditures cover the period from January 1, 1983 through February 29, 1984. The only exception is Hart, whose report filed on March 20, 1984 was not included because of its incompleteness. Thus, Hart's totals reflect the period from January 1, 1983 through January 31, 1984.

2/ Some of the expenditures reflected in the New Hampshire phone category may be inflated since payments reported were made to New England Telephone and include Maine, Massachusetts and Vermont charges. This applies less to Mondale's figures since Committee records were checked to determine the breakdown for New Hampshire.

3/ Mondale has a National Phone Payment Agreement (NPPA) whereby all deposits are covered by a bank line of credit and secured by a Committee account. Apparently, Glenn had a similar agreement and his deposits under the agreement are not reflected in the FEC reports. Thus, Glenn's figures do not represent all of his deposits, however Hart's figures should be complete since Hart did not have any such phone agreement.

4/ Payments to MCI from Glenn and Hart are not included since the breakdown for New Hampshire was not apparent from FEC reports.

5/ A review of Committee records further indicates that $33,278.87 in payments for telephone bills in Iowa was made in March, 1984.

8504263O

EXHIBIT F

AFFIDAVIT OF WILL ROBINSON

Will Robinson, being duly sworn, deposes and says:

From August 1, 1982 until December 10, 1983, I was employed by the American Federation of State, County and Municipal Employees (AFSCME). At that time I was hired by Mondale for President Committee, Inc. to serve as Field Director and a liason in Iowa between the Committee and labor. I was interviewed by the Washington Post on December 10, 1983, in my capacity as an AFSCME employee, for the article which appeared on December 14, 1983. The quote from me in the article was a reference to the labor plan to reach its members through 57,000 phone call attempts per week, utilizing labor phone banks which were located throughout the state for this purpose.

The foregoing affidavit was subscribed and sworn to before me this 6 day of April, 1984, by Will Robinson.

Illene K. Puckett
Notary Public

My Commission expires on June 15, 1986

Signed William J Robinson

Date April 6, 1984

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EXHIBIT G

Affidavit of Charles Campion

Charles Campion, being duly sworn, deposes and says:

To the best of my knowledge, written agreements for the use of union office space, telephones and other facilities were prepared by the Mondale for President Campaign, Inc. The payment of any bills pursuant to said agreements was not my responsibility.

The foregoing affidavit was subscribed and sworn to before me this ____ day of April, 1984, by Charles Campion.

V C Lombardo

Notary Public Vincent T. Lombardo, Esq.

My Commission ~~expires on~~ has no expiration date.

Charles McCampion

Signed

4/9/84

Date

8504054263 2

David Ifshin
Lyn Oliphant
Mondale for President
2201 Wisconsin Avenue
Washington, D.C. 20007

Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

8504054263

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS/JODY C. RANSOM

DATE: MARCH 30, 1984

SUBJECT: MUR 1641 - First General Counsel's Report signed March 28, 1984

The above-named document was circulated to the Commission on a 24 hour no-objection basis at 4:00, March 29, 1984.

There were no objections to the First General Counsel's Report at the time of the deadline.

8504054263 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary

FROM: Office of General Counsel

DATE: March 29, 1984

SUBJECT: MUR 1641 - First General Counsel's Report

The attached is submitted as an Agenda document for the Commission Meeting of _____

Open Session _____

Closed Session _____

CIRCULATIONS		DISTRIBUTION	
48 Hour Tally Vote	[ ]	Compliance	[X]
Sensitive	[ ]		
Non-Sensitive	[ ]	Audit Matters	[ ]
24 Hour No Objection	[X]	Litigation	[ ]
Sensitive	[X]		
Non-Sensitive	[ ]	Closed MUR Letters	[ ]
Information	[ ]	Status Sheets	[ ]
Sensitive	[ ]		
Non-Sensitive	[ ]	Advisory Opinions	[ ]
Other	[ ]	Other (see distribution below)	[ ]

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RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

84 MAR 29 A 9: 58

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

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

MUR # 1641
Date Complaint Received
By OGC 3/6/84
Date of Notification to
Respondents 3/9/84
Staff Member Beverly Kramer

Complainant's Name: Ralph Martin (Bud) Hettinga, Jr.
Respondent's Names: Walter F. Mondale
Mondale for President Committee, Inc.
Michael S. Berman, Treasurer
American Federation of Labor and
Congress of Industrial Organizations
New Hampshire State Labor Council
Iowa Federation of Labor
Alabama Labor Council
National Education Association
NEA - New Hampshire
Iowa State Education Association
Alabama Education Association
Relevant Statute: 2 U.S.C. § 441b(a)
11 C.F.R. § 114.9(d)
11 C.F.R. § 100.7(a)(1)(iii)(A) and (B)
Internal Reports Checked: None
Federal Agencies Checked: None

8504054263 6

Statement of the Case

On March 6, 1984, Mr. Ralph Martin (Bud) Hettinga, Jr., filed a complaint with the Commission. */ The complainant alleges that Presidential candidate Walter F. Mondale, the Mondale for President Committee, Inc., ("the Committee") and Michael S. Berman, as treasurer, violated 2 U.S.C. § 441b(a) by accepting contributions from labor organizations. In addition, the complainant alleges that the American Federation of Labor and

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*/ A copy of the complaint was circulated to the Commission on March 8, 1984.

Congress of Industrial Organizations ("AFL-CIO"), the New Hampshire State Labor Council, the Iowa Federation of Labor, the Alabama Labor Council, the National Education Association, the National Education Association of New Hampshire, the Iowa State Education Association and the Alabama Education Association made contributions to the Mondale for President Committee, Inc., using treasury funds, in violation of 2 U.S.C. § 441b(a).

The complaint is based on articles appearing in The Washington Post, The Wall Street Journal, The New York Times, The Christian Science Monitor and U.S. News and World Report, as well as a television report from NBC-TV's "Today Show".

On the basis of information appearing in these reports, and upon his own belief, the complainant asserts that Mr. Mondale, the Committee and Mr. Berman, as treasurer, have made use of labor organization facilities (i.e., telephones and rental space) for activity in connection with the 1984 presidential elections at a charge below the normal and usual rental charge for the use of the facilities. The complainant asserts that the difference between the amount being charged to Mondale and the full market value of these goods and services represents prohibited contributions of union treasury funds under 2 U.S.C. § 441b(a). Specifically, the complainant charges that Mondale and the Committee (1) are paying ten cents a piece for calls costing other candidates twenty to fifty cents a piece, (2) are not

8504054263 7

having to pay deposits and installation charges which other candidates have to pay and (3) are not paying full fair market value for office space.

By letter of March 9, 1984, the Commission notified the respondents of the complaint. All of the respondents submitted written requests for an extension of 15 days in which to respond to the allegations involved. The Office of General Counsel granted the requested extensions and so notified the respondents in writing. The responses are expected to be received on or before April 13, 1984. Once the responses are received and reviewed the Office of General Counsel will submit a report to the Commission with recommendations.

Charles N. Steele
General Counsel

March 23, 1984
Date

By: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

8504054263 8

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 28, 1984

David M. Ifshin, Esq.
Mondale for President Committee, Inc.
2201 Wisconsin Avenue
Suite 100
Washington, D.C. 20007

Re: MUR 1641

Dear Mr. Ifshin:

This is to inform you that the Office of General Counsel has determined to grant you your requested extension until April 11, 1984, in which to submit a response on behalf of the Mondale for President Committee, Inc. in the above-referenced matter.

If you have any questions, please direct them to Beverly Kramer, the staff member assigned to this matter, at (202)523-4057.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

8504054263 9

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 28, 1984

Robert H. Chanin, Esq.
1201 - 16th Street, N.W.
Washington, D.C. 20036

Re: MUR 1641

Dear Mr. Chanin:

This is to inform you that the Office of General Counsel has determined to grant you your requested extension until April 13, 1984, in which to respond on behalf of the National Education Association, NEA-New Hampshire, the Iowa State Education Association and the Alabama Education Association in the above-referenced matter.

If you have any questions, please call Beverly Kramer, the staff member assigned to this matter, at 523-4057.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

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RECEIVED AT THE FEC
1984 MAR 26 AM 8:37
LEGAL SERVICES

C aff 1954

nea
NATIONAL EDUCATION ASSOCIATION • 1201 16th St., N.W., Washington, D C 20036 • (202) 822-7035
OFFICE OF GENERAL COUNSEL
MARY HATWOOD FUTRELL, President
KEITH GEIGER, Vice President
ROXANNE E. BRADSHAW, Secretary-Treasurer
DON CAMERON, Executive Director

March 23, 1984

MUR 1641
Kramer

92 MAR 26 PM 12:07

Beverly Kramer
Office of General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1641

Dear Ms. Kramer:

This will confirm our conversation regarding MUR 1641. First, I indicated that Robert H. Chanin, General Counsel, National Education Association (NEA), will be representing NEA, NEA-New Hampshire, the Iowa State Education Association and the Alabama Education Association. Statements of Designation of Counsel are attached. Second, we requested an extension until April 13, 1984, in order to prepare our response. This extension is necessary because we are in the process of compiling information and, since the relevant witnesses and documents are in diverse locations, the process is particularly time-consuming.

Please call if you have any questions regarding the above.

Sincerely,

Joy Koletsky

Joy Koletsky
Staff Counsel

JK:ew

3504264

STATEMENT OF DESIGNATION OF COUNSEL

NAME OF COUNSEL: ROBERT H. CHANIN

ADDRESS: 1201 - 16th Street, N.W.
Washington, D.C. 20036

TELEPHONE: 202/822-7035

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

3/23/84
Date

Melvin Myler, Jr.
by Joy Koletsky
Signature

NAME: Melvin Myler, Jr., Executive Director*

ADDRESS: NEA-New Hampshire
103 North State Street
Concord, New Hampshire 03301

HOME PHONE:

BUSINESS PHONE: 603/224-7751

*Mr. Myler previously sent a Statement of Designation of Counsel designating Ms. Sara Potter as Counsel. He has since authorized Mr. Chanin to represent NEA-New Hampshire in this matter.

JK

8504054264 2

STATEMENT OF DESIGNATION OF COUNSEL

NAME OF COUNSEL: Robert H. Chanin

ADDRESS: 1201 - 16th Street, N.W.
Washington, D.C. 20036

TELEPHONE: 202/822-7035

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

3/15/84
Date

Fred R. Comer
Signature

NAME: Fred R. Comer

ADDRESS: 4025 Tonawanda Drive
Des Moines, IA 50312

HOME PHONE: (515) 277-1918

BUSINESS PHONE: (515) 279-9711

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nea
NATIONAL EDUCATION ASSOCIATION
1201 16th St., N. W.
Washington, D.C. 20036

84 MAR 2

USA 20

Beverly Kramer
Office of General Counsel
Federal Election Commission
Washington, D.C. 20463

Mondale for President
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007
Telephone: 202-625-1600

Scott 1940

MONDALE

March 21, 1984

MUR
1641
Kramer

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

Dear Mr. Gross:

On March 12, 1984, the Mondale for President Committee received an amended complaint for MUR 1641. Our response to the allegations contained in the original and amended complaint is due on March 27, 1984.

Because of the demands placed on the Committee's legal staff by the current heavy schedule of primaries and caucuses, the Committee respectfully requests an extension of time of 15 days in which to file a response.

Thank you for your consideration.

Sincerely,

David M. Ifshin
General Counsel

Paid for by Mondale for President, Inc.

84 MAR 22 P5:04

3504054264 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 22, 1984

Margaret E. McCormick, Esq.
AFL-CIO Legal Department
815 - 16th Street, N.W.
Room 808
Washington, D.C. 20006

Re: MUR 1641

Dear Ms. McCormick:

This is to inform you that the Office of General Counsel has determined to grant you your requested extension until April 11, 1984, in which to submit a response on behalf of AFL-CIO, New Hampshire AFL-CIO, Iowa Federation of Labor AFL-CIO and Alabama Labor Council AFL-CIO in the above-referenced matter.

If you have any questions, please direct them to Beverly Kramer, the staff member assigned to this matter, at (202) 523-4057.

Sincerely,

Charles N. Steele
General Counsel

Kenneth A. Gross (by KAG)

By: Kenneth A. Gross
Associate General Counsel

8504054264 5

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

EXECUTIVE COUNCIL

LANE KIRKLAND PRESIDENT THOMAS R. DONAHUE SECRETARY-TREASURER

John H. Lyons
S. Frank Raftery
Glenn E. Watts
Angelo Fosco
Lloyd McBride
Wm. W. Winpisinger
Wayne E. Glenn
John J. Sweeney
Barbara Hutchinson
Gerald W. McEntee
Patrick J. Campbell

Thomas W. Gleason
Murray H. Finley
Sol C. Chaikin
Charles H. Pillard
Kenneth T. Blaylock
William H. Wynn
Robert F. Goss
Frank Drozak
Richard I. Kilroy
William H. Bywater
Kenneth J. Brown

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John DeConcini
Joyce D. Miller
James E. Hatfield
Vincent R. Sombrotto
Marvin J. Boede
Owen Bieber

March 20, 1984

Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington D.C. 20463

Re: FEC MUR 1641

3 5 0 4 0 5 4 2 6 4 7

Dear Mr. Steele:

The purpose of this letter is to request an extension of time from March 27, 1984, to April 11, 1984, for respondents AFL-CIO, New Hampshire AFL-CIO, Iowa Federation of Labor, AFL-CIO, and Alabama Labor Council, AFL-CIO to respond to the complaint filed in the above-referenced matter.

Respondents received the complaint in the above-referenced matter on March 12, 1984. Due to previous and unalterable commitments as well as the fact that the undersigned is also counsel for the respondents in FEC MUR 1637 in which a response is due on March 29, 1984, it would be difficult, if not impossible, to prepare a proper reply in this matter without the requested extension.

Accordingly, I respectfully request an extension of time in which to file the reply of respondents AFL-CIO, New Hampshire AFL-CIO, Iowa Federation of Labor, AFL-CIO and Alabama Labor Council, AFL-CIO from March 27, 1984 to April 11, 1984.

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for respondents
AFL-CIO, New Hampshire AFL-CIO,
Iowa Federation of Labor AFL-CIO,
and Alabama Labor Council, AFL-CIO

Mondale for President
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007
Telephone: 202-625-1600

Doc # 1937

MONDALE

FEB 22 AM 10:05

March 19, 1984

mur 1641
Kramer

Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Dear Mr. Steele:

Attached is another form designating David M. Ifshin, General Counsel, and Carolyn U. Oliphant, Deputy General Counsel, as counsel for the Mondale for President Campaign Committee, Inc. This one was received in connection with MUR 1641. In order to ensure that we receive timely notification of all future matters, I would appreciate your acceptance of this designation of counsel for all matters as effective until revoked. Thus, counsel will receive an initial notification of any future matters filed against the Committee.

If you have any questions concerning this request, please contact Lyn Oliphant at 625-1780.

Sincerely,

Michael S. Berman
Treasurer

Paid for by Mondale for President, Inc

8504054264 8

STATEMENT OF DESIGNATION OF COUNSEL

NAME OF COUNSEL:

David M. Ifshin, Carolyn U. Oliphant

ADDRESS:

Mondale for President Committee, Inc.
2201 Wisconsin Ayenue
Suite 100
Washington, D.C. 20007

TELEPHONE:

(202) 625-1780

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

3-14-84
Date

Michael S. Berman
Signature

NAME: Michael S. Berman

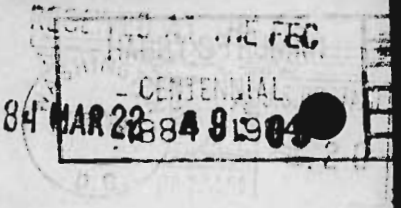
ADDRESS: Mondale for President Committee, Inc.
2201 Wisconsin Avenue
Washington, D.C. 20007

HOME PHONE: 342-9553

BUSINESS PHONE: 452-8387

8504054264 9

ale for President
Wisconsin Avenue, N.W.
ngton, D.C. 20007



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MONDALE

Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

STATEMENT OF DESIGNATION OF COUNSEL

NAME OF COUNSEL: ROBERT H. CHANIN

ADDRESS: 1201 - 16th Street, N.W.
Washington, D.C. 20036

TELEPHONE: 202/822-7035

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

3/23/84
Date

Paul R. Hubbert
by Joy Koletsky
Signature

NAME: Paul R. Hubbert, Executive Secretary

ADDRESS: Alabama Education Association
422 Dexter Ave., Box 4177
Montgomery, Alabama 36195

HOME PHONE:

BUSINESS PHONE: 205/834-9790

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Gen'l 1930

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

EXECUTIVE COUNCIL

LANE KIRKLAND PRESIDENT THOMAS R. DONAHUE SECRETARY-TREASURER

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William H. Bywater
Kenneth J. Brown

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Edward T. Hanley
J. C. Turner
Alvin E. Heaps
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Joyce D. Miller
James E. Hatfield
Vincent R. Sombrotto
Marvin J. Boede
Owen Bieber

MUR
1641
Kramer

March 20, 1984

21 P2:30

Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

RE: FEC MUR 1641

Dear Mr. Steele:

Pursuant to 11 C.F.R. 111.23, the American Federation of Labor and Congress of Industrial Organizations ("AFL-CIO"), the New Hampshire AFL-CIO, the Iowa Federation of Labor AFL-CIO, and the Alabama Labor Council, AFL-CIO, hereby designate Margaret E. McCormick as our counsel with respect to the above-referenced matter.

Ms. McCormick is authorized to receive any notifications and other communications from the Commission in connection with this matter and to act on our behalf before the Federal Election Commission.

Ms. McCormick's address is: AFL-CIO Legal Department, 815 16th Street, N.W., Room 808, Washington D.C. 20006. Her telephone numbers are: (office) 202-637-5397; (home) 301-656-9612.

Sincerely,

Thomas R. Donahue

Thomas R. Donahue
Secretary-Treasurer

8504042652

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American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006

Charles N. Steele, Esq.
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington D.C. 20463

STATEMENT OF DESIGNATION OF COUNSEL

RECEIVED AT THE FEC
84 MAR 20 AM 11:38

CCC #1916

Mur 1641
Kramer

NAME OF COUNSEL: MS. SARA POTTER

ADDRESS: NATIONAL EDUCATION ASSOCIATION
1201 Sixteenth Street, NW
Washington, DC 20036

TELEPHONE: 202/822-7340

84 MAR 20 P12:38

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

March 13, 1984
Date

Melvin E. Myler Jr.
Signature

NAME: MELVIN E. MYLER, JR. EXECUTIVE DIRECTOR
NEA-NEW HAMPSHIRE

ADDRESS: 103 North State Street
Concord, New Hampshire 03301

HOME PHONE:

BUSINESS PHONE: 603/224-7751

cc Sara Potter

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nea
ew hampshire
3 North State Street
ncord, NH 03301

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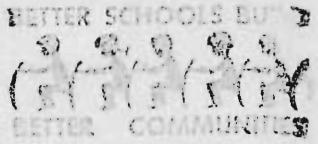


Kenneth Gross
Associate General Counsel
Federal Elections Commission
Washington, DC 20463

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 9, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Michael S. Berman, Treasurer
Mondale for President Committee, Inc.
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007

Re: MUR 1641

8504054265 6

Dear Mr. Berman:

This letter is to notify you that on March 6, 1984 the Federal Election Commission received a complaint which alleges that the Mondale for President Committee, Inc., and you as treasurer, may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1641. Please refer to this number in all future correspondence.

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

Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

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

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

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

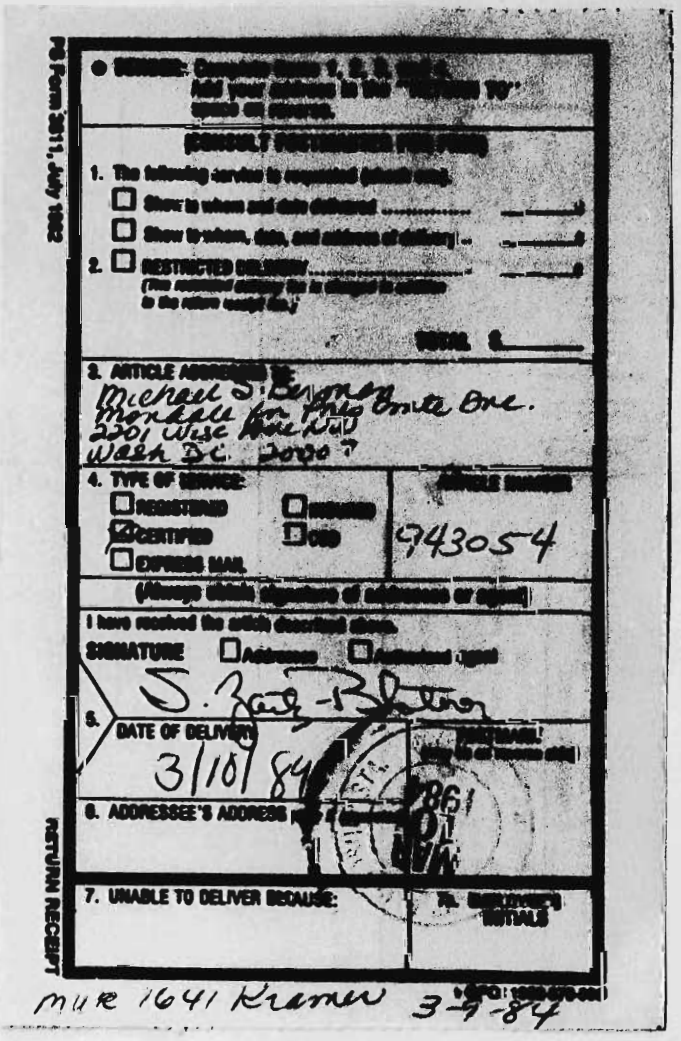
Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

8504054265 57

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


PS Form 3811, July 1982

1. The following service is requested (check one.)
☐ Show to whom and date delivered
☐ Show to whom, date, and address of delivery
2. ☐ RESTRICTED DELIVERY
(This service is subject to charges in addition to the return receipt fee.)

3. ARTICLE ADDRESSED TO:
Michael J. Burgess
Manatt Phelps Rothenberg
2201 Wisconsin Ave NW
Wash DC 20007

4. TYPE OF SERVICE:
☐ REGISTERED ☐ INSURED
☑ CERTIFIED ☐ COD
☐ EXPRESS MAIL
ARTICLE NUMBER
P 943054

(Always obtain signature of addressee or agent)
I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent
S. Burgess-Blevins

5. DATE OF DELIVERY
3/10/84

6. ADDRESSEE'S ADDRESS (ONLY if requested and fee paid)

7. UNABLE TO DELIVER BECAUSE:

8. ADDRESSEE'S INITIALS

RETURN RECEIPT

MUR 1641 Kramer 3-9-84

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 9, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Honorable Walter F. Mondale
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007

Re: MUR 1641

Dear Mr. Mondale:

This letter is to notify you that on March 6, 1984 the Federal Election Commission received a complaint which alleges that you and the Mondale for President Committee, Inc., may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1641. Please refer to this number in all future correspondence.

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

Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

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

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

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

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

8504054265 59

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

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 9, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

National Education Association
1201 - 16th Street, N.W.
Washington, D. C. 20036

Re: MUR 1641

Dear Sir/Madame:

This letter is to notify you that on March 6, 1984, the Federal Election Commission received a complaint which alleges that the National Education Association may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1641. Please refer to this number in all future correspondence.

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

Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

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

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

8504054266O

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

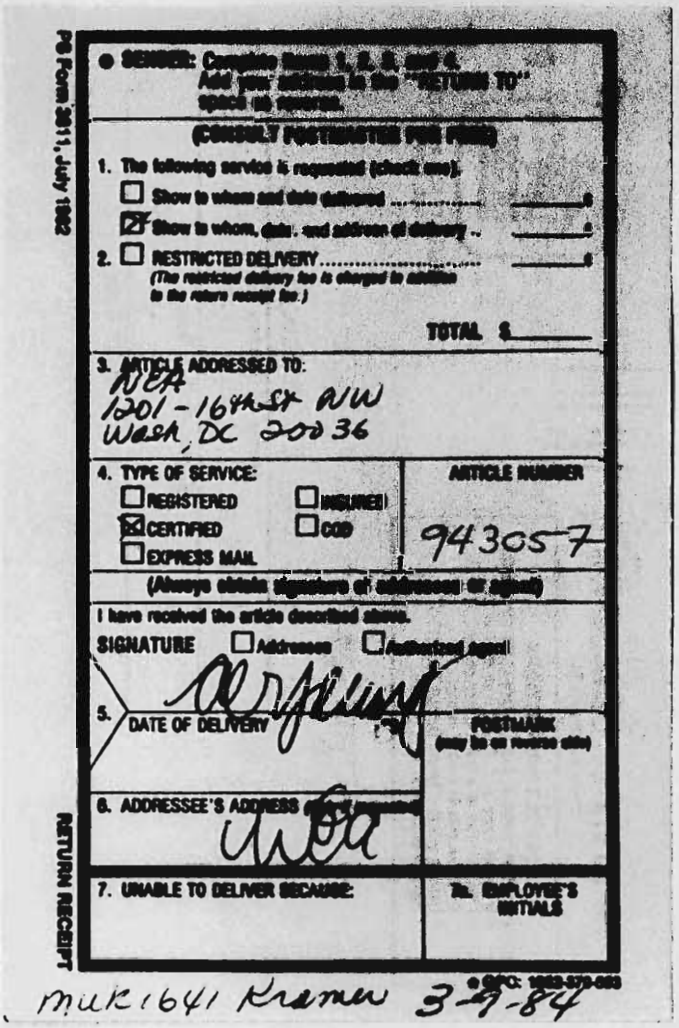
Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

3504054266 1

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



PS Form 3811, July 1982

● SENDER: Complete items 1, 2, 3, and 4. Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
☐ Show to whom and date delivered ..... ____¢
☑ Show to whom, date, and address of delivery .. ____¢
2. ☐ RESTRICTED DELIVERY ..... ____¢
(The restricted delivery fee is charged in addition to the return receipt fee.)
TOTAL $ ____

3. ARTICLE ADDRESSED TO:
NEA
1201 - 16th St NW
Wash, DC 20036

4. TYPE OF SERVICE:
☐ REGISTERED ☐ INSURED
☑ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER
943057

(Always obtain signature of addressee or agent)

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

5. DATE OF DELIVERY

POSTMARK (may be on reverse side)

6. ADDRESSEE'S ADDRESS (ONLY if requested)
NEA

7. UNABLE TO DELIVER BECAUSE:

8. EMPLOYEE'S INITIALS

RETURN RECEIPT

● GPO: 1982-370-865

MUR 1641 Kramer 3-9-84

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 9, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Iowa State Education Association
4025 Tonawanda Drive
Des Moines, Iowa 50312

Re: MUR 1641

Dear Sir/Madame:

This letter is to notify you that on March 6, 1984, the Federal Election Commission received a complaint which alleges that the Iowa State Education Association may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1641. Please refer to this number in all future correspondence.

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

Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

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

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

8504054266 2

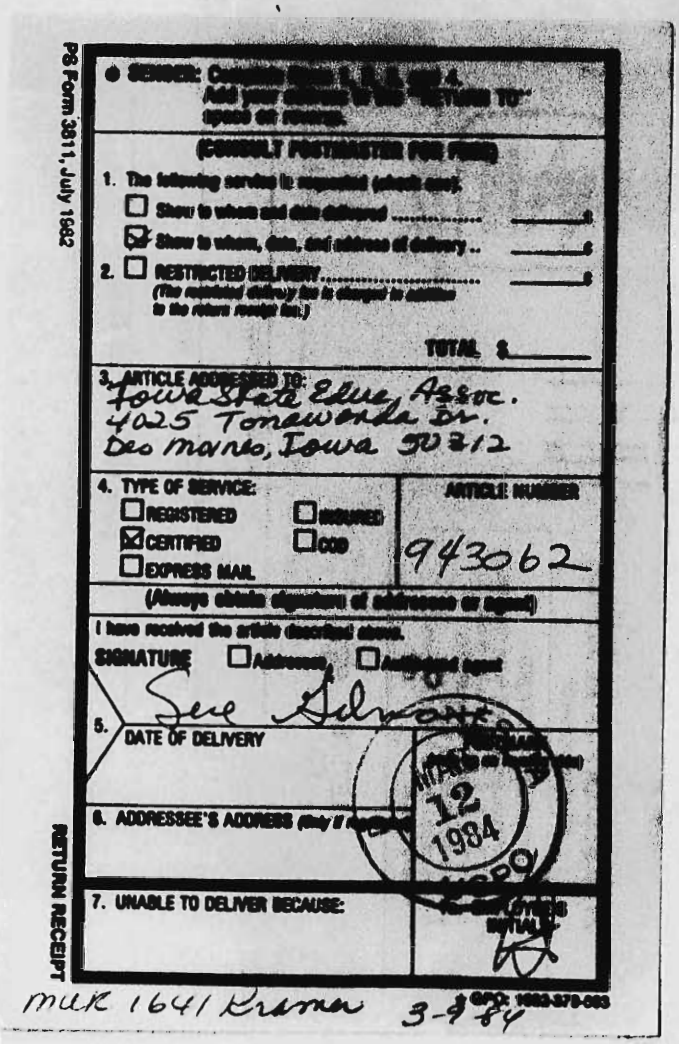
If you have any questions, please contact Beverly Kramer the staff person assigned to this matter at (202) 523-4057. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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


PS Form 3811, July 1982

RETURN RECEIPT

3. ARTICLE ADDRESSED TO:
Iowa State Elec. Assoc.
4025 Tonawanda Dr.
Des Moines, Iowa 50312

4. TYPE OF SERVICE:
☐ REGISTERED ☐ INSURED
☒ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER
943062

5. DATE OF DELIVERY

6. ADDRESSEE'S ADDRESS

7. UNABLE TO DELIVER BECAUSE:

12 1984

MUR 1641 Kramer 3-9-84

8504054266 63

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 9, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Alabama Education Association
422 Dexter Avenue
Box 4177
Montgomery, Alabama 36195

Re: MUR 1641

Dear Sir/Madame:

This letter is to notify you that on March 6, 1984, the Federal Election Commission received a complaint which alleges that the Alabama Education Association may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1641. Please refer to this number in all future correspondence.

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

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8504054266 4

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Sincerely,

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General Counsel

By Kenneth A. Gross
Associate General Counsel

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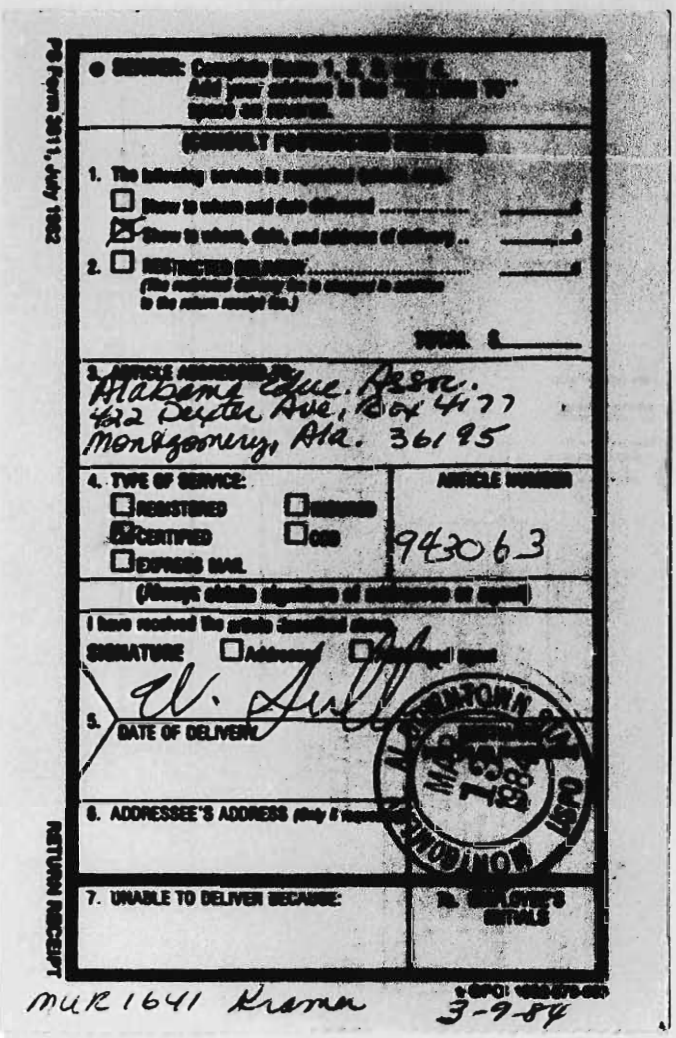

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 9, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

American Federation of Labor
and Congress of Industrial
Organizations
815 - 16th Street, N.W.
Washington, D. C. 20006

Re: MUR 1641

Dear Sir/Madame:

This letter is to notify you that on March 6, 1984, the Federal Election Commission received a complaint which alleges that the American Federation of Labor and Congress of Industrial Organizations may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1641. Please refer to this number in all future correspondence.

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

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Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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2. Procedures
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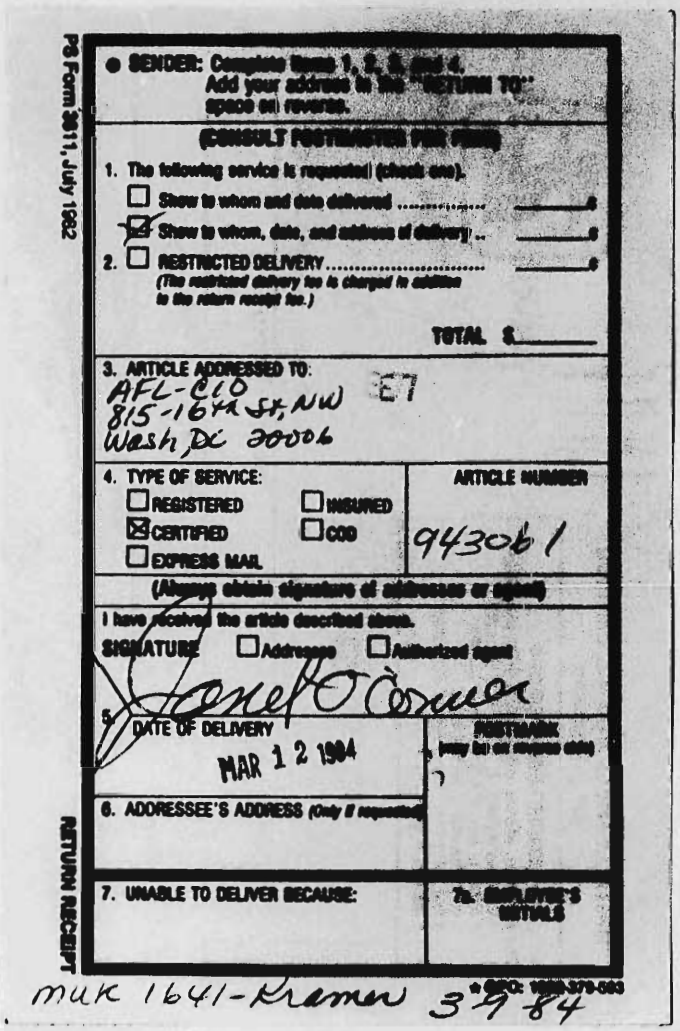
PS Form 3811, July 1982

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
☐ Show to whom and date delivered ..... ____¢
☒ Show to whom, date, and address of delivery .. ____¢
2. ☐ RESTRICTED DELIVERY ..... ____¢
(The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $____

3. ARTICLE ADDRESSED TO:
AFL-CIO
815-16th St, NW
Wash, DC 20006

4. TYPE OF SERVICE:
☐ REGISTERED ☐ INSURED
☒ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER
943061

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent
5. Janet O'Connor

DATE OF DELIVERY
MAR 12 1984

POSTMARK

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

RETURN RECEIPT

MUR 1641-Kramer 3-9-84

8504054267

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 9, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

New Hampshire State Labor Council
P. O. Box 1305
Portsmouth, New Hampshire 03801

Re: MUR 1641

Dear Sir/Madame:

This letter is to notify you that on March 6, 1984, the Federal Election Commission received a complaint which alleges that the New Hampshire State Labor Council may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1641. Please refer to this number in all future correspondence.

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

Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

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

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

8504042668

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

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

8504054266 69

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

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 9, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Alabama Labor Council
231 West Valley Avenue
Birmingham, Alabama 35209

Re: MUR 1641

Dear Sir/Madame:

This letter is to notify you that on March 6, 1984, the Federal Election Commission received a complaint which alleges that the Alabama Labor Council may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1641. Please refer to this number in all future correspondence.

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

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8504054267 0

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Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

8504054267 1

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

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 9, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Iowa Federation of Labor
2000 Walker Street, Suite A
Des Moines, Iowa 50317

Re: MUR 1641

Dear Sir/Madame:

This letter is to notify you that on March 6, 1984, the Federal Election Commission received a complaint which alleges that the Iowa Federation of Labor may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1641. Please refer to this number in all future correspondence.

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

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8504054267 2

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Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

8504054267 3

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

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 9, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

National Education Association
103 North State Street
Concord, New Hampshire 03301

Re: MUR 1641

Dear Sir/Madame:

This letter is to notify you that on March 6, 1984, the Federal Election Commission received a complaint which alleges that the New Hampshire National Education Association may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1641. Please refer to this number in all future correspondence.

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

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8504054267 4

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Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosures
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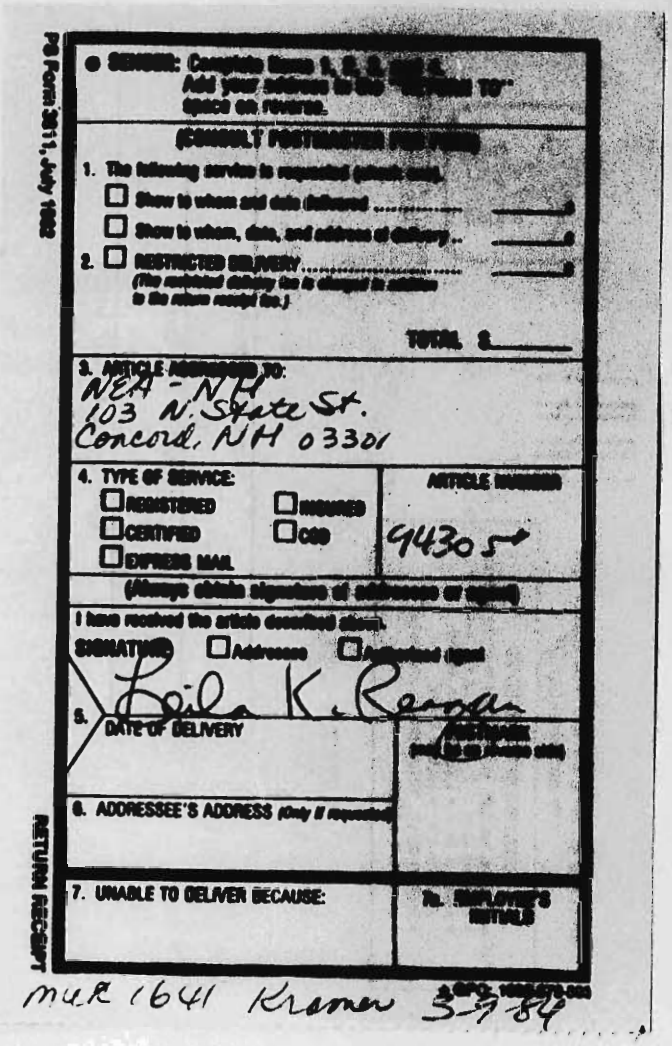
PS Form 3811, July 1983

RETURN RECEIPT

1. The following service is requested (check one.)
☐ Show to whom and date delivered 1
☐ Show to whom, date, and address of delivery .. 2
2. ☐ RESTRICTED DELIVERY 3
(The restricted delivery fee is charged in addition to the return receipt fee.)
TOTAL $

3. ARTICLE ADDRESSED TO:
NEA - NH
103 N. State St.
Concord, NH 03301

4. TYPE OF SERVICE:
☐ REGISTERED ☐ INSURED
☐ CERTIFIED ☐ COD
☐ EXPRESS MAIL
ARTICLE NUMBER
94305

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent
Leila K. Reagan

5. DATE OF DELIVERY

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

8. EMPLOYEE'S INITIALS

MUR 1641 Kramer 3-7-84

8504054295

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 7, 1984

Mr. Bud Hettinga
645 Compress Road
Las Cruces, New Mexico 88001

Dear Mr. Hettinga:

This letter is to acknowledge receipt of your complaint which we received on March 6, 1984, against Walter F. Mondale and Mondale for President Campaign Committee, AFL-CIO, New Hampshire State Labor Council, Iowa Federation of Labor, Alabama Labor Council, National Education Association, NEA-New Hampshire, Iowa State Education Association and Alabama Education Association which alleges violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. The respondents will be notified of this complaint within five days.

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

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure

8504054267 6

RECEIVED
FEC
HAND DELIVERED
84 MAR 6 A 9:48

Bud Hettinga
645 Compress Road
Las Cruces, NM 88001
March 5, 1984

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

Dear Mr. Gross:

Your rejection of my complaint against the Mondale campaign and the unions supporting him is shocking. While the hard-earned wages of those who are forced to support the AFL-CIO and the NEA is apparently being used illegally to subsidize the Mondale campaign, you use nitpicking technicalities as a pretext to delay investigating the matter.

My complaint was in substantial compliance with the Act and regulations. Specifically, my answers to the points raised in your correspondence are, as follows:

COMMENT: 1. A complaint must be in writing. (2 U.S.C. § 437g(a)(1)).

RESPONSE: My complaint was in writing.

COMMENT: 2. Its contents must be sworn to and signed in the presence of a notary public and shall be notarized. (2 U.S.C. § 437g(a)(1)).

RESPONSE: My complaint was properly notarized. The form used is generally accepted as being in substantial compliance with the requirements for sworn documents; however, the statement has been reworded to remove any doubt.

COMMENT: 3. A formal complaint must contain the full name and address of the person making the complaint. (11 C.F.R. § 111.4).

RESPONSE: My full name and address were stated in the first paragraph of the complaint on page 1. I am well known as Bud Hettinga; however, to remove any doubt, I have added to the complaint my full legal name, a requirement not found in the Act or regulations.

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COMMENT: 4. A formal complaint should clearly identify as a respondent each person or entity who is alleged to have committed a violation. (11 C.F.R. § 111.4).

RESPONSE: The respondents were identified in the caption on page 1 and in the first paragraph on page 2.

COMMENT: 5. A formal complaint should identify the source of information upon which the complaint is based. (11 C.F.R. § 111.4).

RESPONSE: The sources of information were identified on pages 4 through 10 of the complaint, and copies of the materials on which the complaint was based were attached as Exhibits 1 through 9.

COMMENT: 6. A formal complaint should contain a clear and concise recitation of the facts describing the violation of a statute or law over which the Commission has jurisdiction. (11 C.F.R. § 111.4).

RESPONSE: The facts of the alleged violations were clearly and concisely recited on pages 4 through 10 of the complaint.

COMMENT: 7. A formal complaint should be accompanied by supporting documentation if known and available to the person making the complaint. (11 C.F.R. § 111.4).

RESPONSE: The complaint was accompanied by supporting documentation, i.e., Exhibits 1 through 9.

8504054267 8

COMMENT: "[P]lease include your telephone number as well as the full names and addresses of all respondents."

RESPONSE: Neither the Act nor the regulations require the complainant's phone number; however, to remove any doubt, I have added it under my signature. The full names and addresses of the respondents were set forth in the caption on page 1 and in the first paragraph on page 2 of the complaint.

I urge you to investigate this matter immediately and to give it your highest priority. The right of individual employees to choose voluntarily those candidates they will support financially must be protected. That right is rendered meaningless unless illegal uses of compulsory dues are prevented from occurring. The harm caused by coerced support cannot be undone after-the-fact.

My complaint is enclosed for refiling.

Sincerely,

Bud Hettinga

Bud Hettinga
505-524-3551

Enclosures

8504054267 9

RECEIVED AT THE FEC
HAND DELIVERED
84 MAR 6 A 9:46

BEFORE THE
FEDERAL ELECTION COMMISSION

Ralph Martin (Bud) Hettinga, Jr., Complainant,	)	
v.	)	MUR _____
WALTER F. MONDALE and MONDALE FOR PRESIDENT CAMPAIGN COMMITTEE,	)	
AMERICAN FEDERATION OF LABOR & CONGRESS OF INDUSTRIAL ORGANIZATIONS,	)	
NEW HAMPSHIRE STATE LABOR COUNCIL,	)	
IOWA FEDERATION OF LABOR,	)	
ALABAMA LABOR COUNCIL,	)	
NATIONAL EDUCATION ASSOCIATION,	)	
NEA-NEW HAMPSHIRE,	)	
IOWA STATE EDUCATION ASSOCIATION,	)	
and	)	
ALABAMA EDUCATION ASSOCIATION, Respondents.	)	

3504126830

COMPLAINT

Ralph Martin (Bud) Hettinga, Jr., of 645 Compress Road, Las Cruces, New Mexico 88001, requests an investigation of the matters alleged herein pursuant to 2 U.S.C. § 437g. He is filing this Complaint on behalf of all working men and women who are compelled, under the threat of losing their jobs, to provide financial support to the AFL-CIO and NEA, and their affiliates.

Respondents are Walter F. Mondale and the Mondale for President Campaign Committee, 2201 Wisconsin Avenue, N.W., Washington, D.C. 20007, the American Federation of Labor & Congress of Industrial Organizations, 815 16th Street, N.W., Washington, D.C. 20006, the New Hampshire State Labor Council, P.O. Box 1305, Portsmouth, N.H. 03801, the Iowa Federation of Labor, 2000 Walker Street, Suite A, Des Moines, IA 50317, the Alabama Labor Council, 231 West Valley Avenue, Birmingham, AL 35209, the National Education Association, 1201 16th Street, N.W., Washington, D.C. 20036, the NEA-New Hampshire, 103 North State Street, Concord, N.H. 03301, the Iowa State Education Association, 4025 Tonawanda Drive, Des Moines, IA 50312, and the Alabama Education Association, 422 Dexter Avenue, Box 4177, Montgomery, AL 36195. Other affiliated and local unions of the AFL-CIO are believed to be involved.

Complainant believes that respondents are engaged in flagrant violations of Section 441b of the Federal Election Campaign Act, as amended, by using union treasury funds to subsidize Walter Mondale's presidential campaign with cut-rate goods and services.

Section 441b prohibits unions from using general treasury funds to make contributions and expenditures in connection with federal elections. Any misuse of treasury funds must be halted immediately both to protect the rights of employees who are

8504054268 1

forced, against their will, to support the pet political goals of union hierarchies and to protect the integrity of the Federal election process.

Federal Election Commission Regulations provide, in pertinent part:

> § 114.9 Use of Corporate or Labor Organization Facilities and Means of Transportation
>
> * * *
>
> (d) Use or Rental of Corporate or Labor Organization Facilities by Other Persons. -- Persons . . . who make any use of corporate or labor organization facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a Federal election are required to reimburse the corporation within a commercially reasonable time in the amount of the normal and usual rental charge, as defined in 11 C.F.R. § 100.7(a)(1)(iii)(B), for the use of the facilities.
>
> § 100.7 Contribution.
> (a) The term "contribution" includes the following payments, services or other things of value:
>
> (1) A gift, subscription, loan (except for a loan made in accordance with 11 C.F.R. § 100.7(b)(11)), advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office is a contribution.
>
> * * *
>
> (iii)(A) For purposes of 11 C.F.R. § 100.7(a)(1), the term "anything of value" includes all in-kind contributions. Unless specifically exempted under 11 C.F.R. § 100.7(b), the provision of any goods or services without charge or at a charge which is less than the usual and normal charge for such goods or services is a contribution. Examples of such goods or services include, but are not limited to: securities, facil-

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ities, equipment, supplies, personnel, advertising services, membership lists, and mailing lists. If goods or services are provided at less than the usual and normal charge, the amount of the in-kind contribution is the difference between the usual and normal charge for the goods or services at the time of the contribution and the amount charged the political committee.

(B) For purposes of 11 C.F.R. § 100.7(a)(1)(iii)(A), "usual and normal charge" for goods means the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution; and "usual and normal charge" for any services, other than those provided by an unpaid volunteer, means the hourly or piecework charge for the services at a commercially reasonable rate prevailing at the time the services were rendered.

This Complaint, filed on information and belief, is based on the following newspaper and television reports that respondent unions are providing Walter Mondale's election campaign with goods and services at below-market rates:

(1) The Washington Post (2/10/84) (Exhibit 1).

* * *

In Iowa, when Sens. John Glenn (D-Ohio), Alan Cranston (D-Calif.) and Gary Hart (D.-Colo.) ordered telephones for their campaign headquarters, they had to put down deposits ranging from $60 to $400 for each phone. Glenn paid $1,400 for four phones in Davenport, Cranston put down $1,600 for six phones in Davenport and Hart paid $500 for one phone in Iowa City.

But Walter F. Mondale has 16 phones in his Davenport headquarters above the Scott County Democratic Central Committee -- and his campaign did not have to make a deposit. He also pays a cut-rate $125 a month rent for his modest headquarters -- half the normal rent.

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The United Food and Commercial Union picks up the rest of the tab and rents the phones. Mondale, the front-runner for the Democratic presidential nomination, was endorsed by the AFL-CIO and National Education Association and has similar cost-sharing arrangements with the labor groups for phones and headquarters space in 19 Iowa cities.

* * *

They charge that these arrangements are enabling Mondale to exceed the $660,000 federal spending ceiling in Iowa and the New Hampshire limit of $391,400 by tens of thousands of dollars.

* * *

The Mondale campaign has agreed to a "lease-back" arrangement under which it pays the unions a total of $5,000 for the 19 locations plus 10 cents for each call on the union phones.

Phones traditionally are one of the major expenses for a large campaign. Cranston Iowa coordinator John Law said that when deposit and service fees are considered it cost his campaign between 30 and 50 cents per call.

* * *

(2) The Wall Street Journal (2/10/84) (Exhibit 2).

* * *

For 10 days in January, 10 local union members, each paid $3.50 an hour in union funds, burned up the lines in an effort to identify Mondale supporters, actual and potential, so they later could be urged to participate in the caucuses. Information from this phone canvassing, mixed with the results of 18 other labor phone-bank operations across the state, was transmitted to AFL-CIO headquarters in Washington, which is spearheading labor's effort for Mr. Mondale.

* * *

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When not being worked by union people on Mr. Mondale's behalf, the phones are leased to the campaign for use by other Mondale supporters. "We could sure use a phone bank like that," says Stephen Doak, the local coordinator for the Glenn campaign. "We can't afford it."

* * *

(3) The New York Times (2/14/84) (Exhibit 3).

It is this vast organizational effort, which an aide to Senator John Glenn estimated to be worth more than $1 million in Iowa alone, that has caused other candidates to accuse Mr. Mondale of being in "labor's pocket." Indeed, Mr. Glenn has charged that the Mondale campaign violated Federal Election Commission rules by permitting labor to pay for some of its Iowa campaign headquarters and by using labor phones without full reimbursement, allegations denied by the Mondale staff.

* * *

(4) The Wall Street Journal (2/13/84) (Exhibit 4).

DES MOINES, Iowa -- Officials of Sen. John Glenn's presidential campaign contended that former Vice President Walter Mondale violated federal election law in connection with the support he has received from organized labor.

* * *

Basically, Mr. White said, labor groups have provided phone banks and office space to the Mondale campaign at costs below fair-market value. . . .

* * *

(5) The Christian Science Monitor (2/14/84) (Exhibit 5).

* * *

Mondale's own staff in Iowa helped to create all the excitement about labor's help for his campaign.

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Mondale's state coordinator, Joe Trippi, told reporters that the campaign was using union telephones across the state at a bargain price of 10 cents a call. Mondale was also said to be leasing union halls for campaign offices across the state for $269 apiece, a price that the other campaigns said did not reflect the true value.

* * *

Mr. Vitali of the Glenn campaign saw the 10-cent-a-call figure in the newspapers and fumed. His own campaign must spend 20 to 50 cents a call to reach voters.

Further, most of the campaigns must put up hefty deposits just to get telephone lines installed. Glenn reportedly had to put up $1,400 just to get four lines installed in Davenport; Alan Cranston had to deposit $1,600 to have six lines opened in the same city; and Hart was required to put down $500 to have one line installed in Iowa City.

Mondale's campaign can just use union telephones that are already in place, and avoid the usual deposit.

* * *

(6) The Washington Post (12/14/83) (Exhibit 6).

DES MOINES --

* * *

Also last weekend, the American Federation of State, County and Municipal Employes and several other unions were gearing up phone banks, with a total of 189 phones across the state.

"Once they're up, we'll be making 57,000 phone call attempts a week," said Will Robinson of AFSCME, Mondale's state labor liaison.

* * *

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(7) The Washington Post (2/14/84) (Exhibit 7).

BIRMINGHAM, Ala. --

* * *

The state's AFL-CIO unions, with a dues-paying membership of about 190,000, plus about 35,000 laid off members, are mounting their most ambitious and unified effort, their leaders say. It is paralleled by the activity of the 53,000-member Alabama affiliate of the National Education Association, the giant teachers union.

* * *

Inez Davis and the other 17 callers, unemployed union members being paid for their services, completed 14,000 calls in the first 10 days of the phone bank here, one of 16 such operations statewide that have a total of 116 paid operators and about two dozen volunteers.

* * *

(8) U.S. News & World Report (10/17/83) (Exhibit 8).

HOLLYWOOD, Fla. --

* * *

In working together during the primaries, AFL-CIO unions for the first time will come into active day-in, day-out contact with each other's members for a common cause -- getting Mondale the nomination.

* * *

In mobilizing support for Mondale, for example, one union's telephone canvassers will be allowed for the first time to provide direct help to another union that needs to reach its members.

"Our people may wind up calling on Communications Workers members in some states, and their people may call our members in other

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states," says Holayter. "That's unheard of. We've never done anything like this before."

* * *

(9) NBC-TV's "Today Show" (2/9/84) (Exhibit 9).

* * *

KEN BODE -- This year the Glenn campaign is watching Mondale's spending very closely.

PAUL SHONE - Glenn's New Hampshire manager -- We have a computer here that keeps track of that. I have a Budget Director here that keeps track of that.

KEN BODE -- Not only does he keep Glenn's budget, but he fiddles around with the Mondale budget as well. It's known, for example that Mondale spent $31,203 on rental cars in Massachusetts. In New Hampshire, $81.40. Tricky bookkeeping?

Then there's the matter of telephones. Labor has endorsed Mondale and is making "independent expenditures" on his behalf.

So, how many phones do they have in the state?

CHARLES CAMPION - Mondale's New Hampshire Coordinator -- I'm not sure of the exact number to tell you the truth. They have them, but they have phone banks and phones that they have in existing offices.

KEN BODE -- You don't know how many they have?

CHARLES CAMPION -- I think it's over 100, but I'm not sure exactly the number to tell you the truth.

KEN BODE -- And who deals with labor for the Mondale campaign?

CHARLES CAMPION -- Well, Charlie Start is the AFL-CIO employee here. I talk to them and then he and I talk back and forth you know. But he really has their own program going.

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KEN BODE -- The Mondale people leaseback the union phones, thereby saving installation costs.

PAUL SHONE - Glenn's campaign manager -- On a leaseback arrangement the question is whether they are paying fair market value for the phones which according to the law is what needs to be done or if you are paying for the cost of phones. If you are paying for the cost of phones it is not according to the rules.

KEN BODE -- How much do you pay them?

CHARLES CAMPION -- I'm not sure, we submit that to Washington, who pays it.

KEN BODE -- Okay, let's check Iowa. Labor claims they have phones in 19 locations, 250 in all. These are labor phones operating in Sioux City.

* * *

On Monday night the Mondale campaign leased these phones. They paid 10¢ a call. That saved half the cost over a payphone. It also saves the Mondale folks the cost of installing their own phones. On Tuesday night, while the Mondale people worked downstairs in their offices, labor volunteers took over the phones.

In 12 additional locations including here in Cedar Rapids, Mondale leases headquarter's space from unions.

* * *

These reports indicate that Mondale and his election committee (1) are paying ten cents apiece for calls costing other candidates twenty to fifty cents apiece, (2) are not having to pay deposits and installation charges which other candidates have to pay, and (3) are not paying full fair market value for office space.

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The difference between the amount being charged to Mondale and the full fair market value of these goods and services represents an illegal contribution of union treasury funds under § 441b and is a crass violation of the First Amendment rights of working men and women who are forced to support unions financially and who are thereby compelled to support a political cause they oppose. For these reasons, Complainant demands a full and expeditious investigation of these reports and a correction of all violations.

This Complaint is not being filed at the request of any candidate for Federal office.

Ralph Martin (Bud) Hettinga, Jr.
Tel. No. (505) 524-3551

The foregoing Complaint was subscribed and sworn to before me this 5th day of March, 1984, by Ralph Martin (Bud) Hettinga, Jr.

Notary Public

My commission expires on 1/5/87.

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However, a union member has the right to volunteer to work for a candidate, like any other citizen, according to the FEC.

So, it is legal for a union member to work on a union phone bank, calling union members only on behalf of a candidate, and then to use the same phone to call the general public for the candidate as long as the campaign keeps a record of the work done, reports it to the FEC and counts it toward the spending ceiling.

The law, however, does not require a campaign to report expenditures under such "leaseback" agreements on phones and office space until the money is spent.

"It's sort of a gray area, I guess," said Fred Eiland, an FEC spokesman.

Mondale officials say that they are paying "fair market value" for all facilities, but no payments have shown up in reports to the FEC, which has interpreted the law as requiring payment within a "commercially reasonable time," or about 30 working days.

Federal law prohibits political action committees, such as the National Conservative Political Action Committee, that independently communicate with the general public on behalf of political candidates to have any contact with the candidates' campaign organizations.

However, organizations such as labor unions and corporations that communicate only with their members and employes are permitted to coordinate their activities with the candidates they support, Eiland said.

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Union Support at Costly Phone Banks Jangles Mondale's Democratic Rivals

By Kathy Sawyer and Bill Peterson
Washington Post Staff Writers

NASHUA, N.H.—The shopkeepers here all know the stately red brick building at the corner of Main and Factory streets as the site of the local Mondale for President headquarters because of the standard oversized poster in a third-floor window.

But it is not listed with the phone company's directory information service, and inside the volunteers are wearing various union campaign buttons, members and nonmenbers alike. The unions leased the phones for its own use.

In Iowa, when Sens. John Glenn (D-Ohio), Alan Cranston (D-Calif.) and Gary Hart (D-Colo.) ordered telephones for their campaign headquarters, they had to put down deposits ranging from $60 to $400 for each phone. Glenn paid $1,400 for four phones in Davenport, Cranston put down $1,600 for six phones in Davenport and Hart paid $500 for one phone in Iowa City.

But Walter F. Mondale has 16 phones in his Davenport headquarters above the Scott County Democratic Central Committee—and his campaign did not have to make a deposit. He also pays a cut-rate $125 a month rent for his modest headquarters—half the normal rent.

The United Food and Commercial Union picks up the rest of the tab and rents the phones. Mondale, the frontrunner for the Democratic presidential nomination, was endorsed by the AFL-CIO and National Education Association and has similar cost-sharing arrangements with the labor groups for phones and headquarters space in 19 Iowa cities.

Of 10 Mondale field offices in New Hampshire, eight share space with unions.

All this has prompted Mondale's opponents to charge that he and his allies in organized labor are taking unfair advantage of a loophole in federal election laws.

They charge that these arrangements are enabling Mondale to exceed the $660,000 federal spending ceiling in Iowa and the New Hampshire limit of $391,400 by tens of thousands of dollars.

"I don't say the guy is doing anything illegal, but he is certainly violating the spirit, if not the letter, of the law," said Sam Vitali, who heads Glenn's Iowa campaign and contends that Mondale and his union allies are outspending his rivals for the nomination by 3 to 1 in Iowa. "He's running a Cadillac campaign and trying to tell people he's paying for it with a Chevrolet budget."

"Mondale is operating on the margins," Hart said in an interview. "He's playing from a loaded deck. If his nomination is as assured as he seems to think, why does he risk criminal penalties by operating on the margin of what is legally allowed? I think the answer is that they are very, very worried . . . ."

Mondale spokesmen and labor activists dismiss the charges as sour grapes.

"The Glenn people have to explain their loss somehow," said Joe Trippi, 26, Mondale's Iowa coordinator.

Labor spokesmen acknowledge that the federal regulations are tailor-made for labor's unprecedented early endorsement of Mondale.

"What do people expect us to do?" asked one. "We'd be fools not to take advantage of it. I'm proud of what we're doing for our man."

Mondale campaign officials contend that they not only will stay within the New Hampshire spending ceiling but also will have a cushion of about $20,000.

The Mondale campaign has agreed to a "leaseback" arrangement under which it pays the unions a total of $5,000 for the 19 locations plus 10 cents for each call on the union phones.

Phones traditionally are one of the major expenses for a large campaign. Cranston Iowa coordinator John Law said that when deposit and service fees are considered it cost his campaign between 30 and 50 cents per call.

In New Hampshire one night last week, the Nashua Main Street operation was paid for and run by Mondale's campaign and thus, at that time, was not a union phone bank, according to Matthew Purvis, Mondale's Nashua field coordinator.

When the union political operation needs the phones, he said, "We work around them." Each operation logs its time on the phones and is charged accordingly, he said.

There apparently is no violation of federal campaign laws in this energetic effort on Mondale's behalf by the AFL-CIO and the NEA. This sharing is a murky area, which has no precedent and on which the Federal Election Commission has made no ruling.

But Mondale's rivals—trailing him in the polls and lacking any equivalent organizational muscle, are trying to turn this advantage against him. They contend that voters would be receptive to charges that labor has become too influential in the Democratic Party.

In addition to accusing Mondale of promising the world to interest groups, Glenn and the others are playing increasingly loud on the theme that Mondale and the labor bosses are bringing in what one called "a lot of outsiders" to try to influence voters and get an "unfair" advantage under the state spending limits. They contend that labor's support is worth $20 million and constitutes a second campaign organization.

Under federal campaign laws, labor's political activities do not count against Mondale's state campaign spending limits as long as they are confined to educational communications with union members.

Exhibit 1

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THE WALL STREET JOURNAL, Friday, February 10, 1984

Blitz for Fritz

Calls and Letters Urge Iowa to Vote Mondale As Unions Go to Work

Labor's Canvassing Provides A Caucus Edge in a Year When Support Seems Soft

How It Works in Sioux City

By Robert W. Merry
Staff Reporter of The Wall Street Journal

SIOUX CITY, Iowa—The Walter Mondale phone bank here is a busy operation, with 10 lines largely paid for and maintained by organized labor. One recent evening the phones were humming because the local education association's pro-Mondale leadership had mobilized 14 members for phone duty. They included Mildred Moseman, a grandmotherly school teacher. Why does she support Walter Mondale?

"Well," she says hesitantly, a sheepish grin crossing her face, "actually I don't." She prefers John Glenn, she says, whispering his name, but she is fulfilling some volunteer obligations for the association.

Mildred Moseman is one of hundreds of Iowans caught up in a major political development here and across the state—the powerful organizational efforts for Walter Mondale by affiliates of the National Education Association and by other unions. Their efforts are contributing to a growing belief here that when Iowans cast the election year's first votes at 2,500 precinct caucuses Feb. 20, they will give Mr. Mondale a big boost toward the Democratic presidential nomination.

Walter Mondale

"If organization means anything," says Betty Strong, the Democratic leader for Woodbury County, which includes Sioux City, "then Walter Mondale should take it."

Of course, it still is possible that another candidate could catch on and give the front-running Mr. Mondale a serious race. Telephone canvassing by all the campaign staffs, including the former vice president's, shows a high proportion of undecided voters. And the Mondale support, while broad, seems soft.

"There's no intense passion for Mondale," concedes Mrs. Strong, herself a Mondale supporter.

But there is no discernible passion for anyone else, either. The kind of candidate who can stir up emotions and overwhelm his opponents' organizational efforts—a Robert Kennedy of 1968, for example—hasn't emerged here.

Thus, old-fashioned political organizing seems likely to be the prime determinant of who shows up at those precinct meetings to fight it out in the statewide ritual of neighborhood democracy. And Mr. Mondale's organization, bolstered by labor, clearly is the most formidable in the state.

Identifying Supporters

Take the phone bank here in Sioux City, for example. Using those phones, the local labor council has reached nearly 2,600 of the 4,800 union members in the area.

For 10 days in January, 10 local union members, each paid $3.50 an hour in union funds, burned up the lines in an effort to identify Mondale supporters, actual and potential, so they later could be urged to participate in the caucuses. Information from this phone canvassing, mixed with the results of 18 other labor phone-bank operations across the state, was transmitted to AFL-CIO headquarters in Washington, which is spearheading labor's effort for Mr. Mondale.

The federation's big computer then spit out follow-up letters aimed at expanding and galvanizing pro-Mondale sentiment. And using information culled from the phone calls, it interchanged various paragraphs in producing the letters so each would come as close as possible to addressing the interests of the addressee.

POLITICS '84 *A surprise in New Hampshire wouldn't astonish anyone. (Page 50)*

"It's the new gimmick in direct mail," boasts Bernard Albert of the AFL-CIO's Committee on Political Education.

Money Helps

When not being worked by union people on Mr. Mondale's behalf, the phones are leased to the campaign for use by other Mondale supporters. "We could sure use a phone bank like that," says Stephen Doak, the local coordinator for the Glenn campaign. "We can't afford it."

This week, the union phone jockeys hit the lines to follow up the letters. "It's a process of 'phone call, letter, phone call, letter' until we get the core of those most likely to go to the caucuses and vote for Mondale," says the AFL-CIO's Mr. Albert.

Federation leaders have also tried to get a "local union liaison" designated in every large union local in the country. His job: to stir up Mondale sentiment among fellow workers.

At Local 231 of the Electrical Workers union here in Sioux City, that job has been assumed by the local president, Richard Rysta, who finds himself more involved in politics this year than ever before. "You can't tell our members how to vote any more, as we used to do in the old days," he concedes. But he says workers in this recession-ravaged community don't need much persuading on the need to unseat Ronald Reagan.

Like many other local liaison designees around Sioux City, Mr. Rysta also will serve as a labor operative at his own caucus, in the 28th precinct. Though he has attended only two caucuses in the past and never taken an active role, this year he is trying to line up 10 neighbors who would attend with him and, he hopes, elect him delegate to the later county convention.

Meanwhile, education-association activists are busily mustering Mondale support among the county's 400 or so teachers who are Democrats. They are a fount of political volunteers. "If the (Mondale) campaign tells us they need X number of people on a given night," boasts Margo El-Zeini, who heads the local education association's political action committee, "we get them there."

In addition, her committee promotes caucus participation through a program of "teachers calling teachers." Then Mondale state headquarters follows up with letters.

Such efforts are hardly new, of course; this kind of organization politics has attended the caucuses for years. As the AFL-CIO's Mr. Albert puts it, it is "just good old-fashioned, bread-and-butter, nuts-and-bolts politics—nothing glamorous about it."

Most unions in Iowa—with the notable exceptions of the United Auto Workers and the NEA—haven't demonstrated great skill at that old-fashioned politics in years past. "When you get past the hot air," says a longtime political journalist in the state, "these unions haven't shown much."

But this year labor and education groups

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Exhibit 2

are united as never before—and behind one candidate. Four years ago, Iowa labor unions generally split their support between Sen. Edward Kennedy and President Carter, while the teachers went all-out for Mr. Carter. In 1976, labor support was divided among numerous candidates. This year's unity, stemming from Mondale endorsements by both the AFL-CIO and the NEA, has produced a phalanx of Mondale strength.

Here in Sioux City, Mrs. Strong, the county Democratic leader, believes the labor-education efforts will make a difference in all but about two or three of the city's 34 precincts. "In almost all of the precincts," she says, "teachers or labor or both have an opportunity to influence the outcome."

In the generally blue-collar precincts, she figures, efforts of old-line unions should be decisive. In places like the 17th precinct, where labor is weak and there are "a lot of young liberals who get wild on the issues," she finds the teachers have a lot of influence.

Extended Influence

Labor operatives can influence caucus outcomes even when they don't represent big numbers. Take, for example, the 30th precinct on the city's north side. One of the few union men living there is James Hodgins, who works in a hog-killing operation at a packing house and is a member of the United Food and Commercial Workers. Mr. Hodgins is working hard to get Mondale people to the precinct caucus Feb. 20. He expects 15 or more Mondale supporters out of a likely 20 or 25 Democrats at the caucus.

Mr. Mondale wasn't an automatic choice for Mr. Hodgins, a self-described "religious man" who has "some problems" with some of Mr. Mondale's liberal positions on social issues, particularly his "pro-choice" stance on abortion.

But he cast his lot with the former vice president in the interest of union solidarity, party unity and the goal of defeating Mr. Reagan. "This is the first time we (Democrats) haven't been biting each other's backs," he says. "It's very healthy."

Like labor, the local party structure is solidly behind Mr. Mondale. "I don't want to brag," says Mrs. Strong, "but Mondale's steering committee has the whole top echelon of political activists in town."

Brought Together

It isn't any accident that labor is working in amity with the Democratic establishment. Though rare in Woodbury County just a few years ago, such cooperation is a product of two powerful political developments here.

First is the new political aggressiveness of the local labor council under the leadership of Wayne Huntsman, who trims hogs' jowls at a packing plant. Under his leadership, the local labor movement has become intensely partisan. Those involved in politics here credit Mr. Huntsman for some big Democratic victories in the 1982 elections.

The other factor is the recession, which brutalized this area and has receded only slightly here in recent months. Wages and benefits in the meatpacking plants are down nearly 40%, building-trades jobs are far fewer than before, and the number of machinists working in the area is down to about 500 from about 1,500 a few years ago.

"Everybody is scared to death here," says Harry Smith, a local labor lawyer. The result, he says, is a return to traditional political viewpoints among union members. That means Democratic loyalty, and this year that means Walter Mondale.

Of course, all this activity doesn't guarantee that Mondale supporters will throng to the Democratic caucuses Feb. 20. Apathy might reign. The weather might be bad. Many union people don't like the verbal give-and-take of caucus sessions anyway.

But most of those involved in this year's organizational blitz for Fritz here can't imagine it going flat on caucus night. "There just isn't a possibility," says Harry Smith, "of Mondale not winning."

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THE NEW YORK TIMES, TUESDAY, FEBRUARY 14, 1984

Union Push for Mondale Facing Crucible of Iowa

By BARBARA BASLER
Special to The New York Times

WATERLOO, Iowa, Feb. 10 — Myrna Jacoby, who wants Walter F. Mondale to be President, was sitting in an office of Local 838 of the United Automobile Workers in a room decorated with framed colored photographs of John Deere tractors.

She was sitting behind a large table cluttered with precinct maps, envelopes and papers, trying to remember why "Baby Moon Whitewalls" was scrawled in pencil across one of the computerized telephone lists. Then she brightened. In calling a union member to ask for his support of Mr. Mondale, she had been asked to help drum up business for Baby Moon Whitewalls, a band that some laid-off workers had formed.

"We're calling people we know, and who trust us," said Mrs. Jacoby, who is coordinating the campaign effort of the local. On Feb. 20 the state holds its preliminary caucuses leading to the selection of delegates to the national party conventions this summer.

Huge Political Apparatus

When the American Federation of Labor and Congress of Industrial Organizations endorsed Mr. Mondale for the Democratic Presidential nomination in October, it brought the former Vice President a multimillion-dollar political apparatus that uses computer technology to tailor mailings to unionists and to provide telephone lists.

Iowa is the first real test of that machinery and it is in excellent condition, by all accounts. Although some members of the rank and file support other candidates, union officials say this was to be expected. But even some of Mr. Mondale's aides acknowledge that many voters appear to remain apathetic as the caucuses approach.

"We been finding a lot of complacency among our supporters here," said Will Robinson, a Mondale campaign staff member and labor liaison representative in Des Moines. "They figure, 'Mondale's got it wrapped up, so why bother to go out on a cold winter's night?' "

3 Separate Efforts

The A.F.L.-C.I.O. is aiming its get-out-the-vote effort at the 90,000 registered Democrats and independents in its 200 union locals, Mr. Robinson said, and two other campaigns by labor groups are under way in the state.

The National Education Association is urging the 35,000 members of its Iowa affiliate to support Mr. Mondale, and Mrs. Jacoby is part of the effort by the state chapter of United Automobile Workers to get its 32,000 members to do the same. The teachers' union is not affiliated with the A.F.L.-C.I.O., and even though the national auto union has reaffiliated, the statewide unit is working separately.

The unions began with phone calls to identify Mondale supporters, then they called the undecided and made still more calls for practice caucuses.

Charges by Mondale Foes

On the day of the caucuses the labor volunteers will be telephoning union members. These precinct captains will phone again that night from the schools and living rooms that house the caucuses, trying to reach union people who had not yet shown up despite their promises that they would.

It is this vast organizational effort, which an aide to Senator John Glenn estimated to be worth more than $1 million in Iowa alone, that has caused other candidates to accuse Mr. Mondale of being in "labor's pocket." Indeed, Mr. Glenn has charged that the Mondale campaign violated Federal Election Commission rules by permitting labor to pay for some of its Iowa campaign headquarters and by using labor phones without full reimbursement, allegations denied by the Mondale staff.

But money alone cannot eliminate all the hitches in a campaign effort. For example, the A.F.L.-C.I.O.'s mailing operation was supposed to produce personalized letters inviting members to attend schools for practice caucuses. The letters were still "somewhere in Virginia" three days before the schools were scheduled.

Exhibit 3

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"Something got messed up," said James J. Wengart, president of the Iowa arm of the A.F.L.-C.I.O. The letters arrived one day before the schools were held.

Something for Everyone

Some of Mr. Mondale's volunteers have also questioned the depth of his support among the rank and file.

"Nobody's really getting fired up yet," said Gerry Leach, a volunteer from U.A.W. Local 838. "I think Mondale is the best candidate, but he's making too many promises and members say to me: 'How can we believe him? He's promised everything to everybody.' "

In the gray industrial town of Waterloo, where streets with names like Rainbow Drive curl past one sprawling factory after another, 4,500 auto union members have been laid off from the big John Deere farm machinery works. And the political effort by the U.A.W. local here reflects, to some extent, what is happening with labor across the state.

Strong Mondale Backing

"Statewide, the U.A.W. had 44,000 dues-paying members in 1980, and we have 32,000 now," said Chuck Gifford, the state political director for the union. "There's so damn much despair out there. I've never seen it this tough."

Mrs. Jacoby, a laid-off worker who once smoothed the rough edges off tractor parts for Deere, is now getting well above the minimum wage to organize her local's support. She said volunteers in Local 838 had reached several thousand of its members and found "65 percent for Mondale, 25 percent undecided and 10 percent for all the rest."

A New York Times/CBS News Poll conducted Jan. 14 to 24 in Iowa showed that 60 percent of respondents from union households who said they were likely to participate in the caucuses or usually voted in Democratic primaries favored Mr. Mondale, while 16 percent backed Mr. Glenn. No one else got more than 4 percent.

Depressed and Apathetic

However, Mr. Leach said many unionists had told him they were not going to attend the caucuses. "The worst ones," he said, "are the ones who've been laid off for a couple of years. They are so down, it's hard to get them motivated about anything, but I can understand that."

Mrs. Jacoby said that of the 6,300 members of the local, about 30 "really active regular volunteers" were making phone calls to other union members, many taking their computer lists home and calling from there. These unpaid aides are trying to recruit 70 volunteer precinct captains.

Bob Young said he had found a substantial minority opposed to Mr. Mondale in his 70 calls. "Most are for Mondale, but about 30 percent are for John Glenn," he said.

Some Hope for Glenn

And indeed, although the union leadership is solidly behind Mr. Mondale, in at least this local a handful of members support Mr. Glenn.

"I like Glenn because he's got a plain stance and doesn't promise pie in the sky for everyone," said Jerome Nagle, a full-time representative of Local 838 who handles union grievances at Deere.

"Look, I'm not crazy," said Richard Nieman, another Glenn supporter who is another committeeman of the local. "If all the members I knew were for Mondale, I might just forget this whole thing. But there are a lot of people at the plant who are uncommitted or leaning between Mondale and Glenn."

Both men stressed that they were endorsing Mr. Glenn as individuals, not as union officials.

Gaffe by Daughter

The union did permit Mr. Glenn's daughter, Lynn, to speak at one of its regular meetings last month. That campaign stop had its hitches, too.

Proposed legislation to require a proportion of American-made parts in imported cars is close to the hearts of the U.A.W. workers, who have seen John Deere import more and more of its small machines. Mr. Glenn has endorsed the plan.

"She said her father had voted for the bill and that it had passed, and hell, it's never even gotten to the Senate," one union member recalled of Mr. Glenn's daughter's apppearance,

"She didn't hear the question," Mr. Nagle said when asked about the incident. "She knew all that. She just got flustered, and after she got off stage she was in tears."

Statewide union officials like Mr. Gifford said they had never expected the labor endorsement to bring the automatic support of all union workers.

"I'm not saying we'll be holding one big giant membership meeting on caucus night — that won't happen," Mr. Gifford said. "But we have a structure in place, we have a network to produce for Mondale, and we will."

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THE WALL STREET JOURNAL, Monday, February 13, 1984

Glenn Aides Say Mondale Violated Election Law

By a WALL STREET JOURNAL *Staff Reporter*

DES MOINES, Iowa — Officials of Sen. John Glenn's presidential campaign contended that former Vice President Walter Mondale violated federal election law in connection with the support he has received from organized labor.

At a news conference here, William White, a top Glenn operative, said campaign aides plan today to ask the Federal Election Commission to investigate the allegations.

Though he declined to be specific, Mr. White charged that the Mondale campaign received considerable financial assistance from organized labor in Iowa that hasn't been reported to the commission as required by law. He added that this financial assistance, when combined with what the Mondale campaign has reported spending here, would bring its total spending in the state to a level higher than legally allowed.

Basically, Mr. White said, labor groups have provided phone banks and office space to the Mondale campaign at costs below fair-market value. He also said Glenn campaign officials have evidence that the Mondale campaign violated provisions of the law requiring labor's political efforts to be separate from efforts by the campaign.

Mondale campaign officials quickly denied the charges, dismissing them as a desperate move by a failing candidacy.

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Exhibit 4

TUESDAY FEBRUARY 14, 1984 THE CHRISTIAN SCIENCE MONITOR

Labor's help in Mondale drive calls spending laws into question

By John Dillin
Staff writer of The Christian Science Monitor

Des Moines

Are campaign reform laws giving Walter Mondale a special advantage over his rivals in the 1984 Democratic primaries and caucuses?

"I'm still waiting for someone to do the story on what Mondale is really spending in this election," says Jeanne Shaheen, a campaign strategist for Gary Hart.

"Mondale talks about playing on a level table, but it's tilted here," complains Sam Vitali, state coordinator for John Glenn. "I have to live with a spending cap. But labor's help has allowed Mondale to outspend us two or three times in this state."

Such complaints by Mrs. Shaheen in New Hampshire and Mr. Vitali in Iowa have stung the front-running campaign of Walter Mondale. Perhaps even more important, they are calling into question the effectiveness of campaign spending laws passed in the post-Watergate years.

The Glenn camp, watching labor unions spend thousands of unregulated dollars for Mr. Mondale in the campaigns in Iowa and New Hampshire, is hoping that the Federal Election Commission (FEC) will rule that some of the union spending in Mondale's behalf violates federal law.

Mondale's staff in Iowa says all this grumbling by the other candidates is just "sour grapes," because they didn't get labor's backing. Mondale told reporters here: "This is trash time. It's no coincidence that we are seeing all this debris thrown around a week before the election."

Mondale added that Mr. Glenn had picked a poor state to challenge his integrity. "I'm well known here, and one reason I'm doing well is that I'm trusted."

Campaign law specialists, however, say the issue goes beyond the outcome of the current race. The extensive participation by labor in the primaries was not foreseen by those who wrote the campaign laws.

At the heart of the issue are the tight spending limits in key states — especially the all-important early states, New Hampshire and Iowa. Federal law permits a candidate to spend up to $404,000 during the New Hampshire primary campaign — not a dime more. In Iowa, the limit is precisely $684,537.60. However, under the law as now written, an organization such as the AFL-CIO can run expensive telephone banks, send out letters to union members, and coordinate its efforts with one of the candidates. None of the labor expenditure is counted against the limits of the candidate that labor is helping.

Before 1984, big labor had never become so deeply involved in the primary campaigns. But its activities here and in New Hampshire this year have campaign law specialists in Congress quite concerned. This latest experience could result in a fresh look at laws now on the books, according to these specialists.

One change being considered would be to remove the spending caps in specific states. Instead, the total ceiling of about $24 million nationwide would be the only limit, and candidates would be allowed to apportion this state-by-state in any way that would most benefit their campaigns.

Another possibility would be to count the spending by labor or other groups toward the spending limits of the candidate that they are helping. But such a change in the law would face tough political opposition on Capitol Hill, congressional aides say.

Mondale's own staff in Iowa helped to create all the excitement about labor's help for his campaign.

Mondale's state coordinator, Joe Trippi, told reporters that the campaign was using union telephones across the state at a bargain price of 10 cents a call. Mondale was also said to be leasing union halls for campaign offices across the state for $269 apiece, a price that the other campaigns said did not reflect the true value.

Under the law, labor can spend any amount it wants to support Mondale with its own members here in Iowa. But that help can only involve its own members. If union telephones, buildings, or other facilities are used to solicit nonunion support, then those must be sold or leased to the campaign at fair market price.

Mr. Vitali of the Glenn campaign saw the 10-cent-a-call figure in the newspapers and fumed. His own campaign must spend 20 to 50 cents a call to reach voters.

Further, most of the campaigns must put up hefty deposits just to get telephone lines installed. Glenn reportedly had to put up $1,400 just to get four lines installed in Davenport; Alan Cranston had to deposit $1,600 to have six lines opened in the same city; and Hart was required to put down $500 to have one line installed in Iowa City.

Mondale's campaign can just use union telephones that are already in place, and avoid the usual deposit.

Paul Jensen, Mondale's coordinator with the AFL-CIO, flew into Des Moines after the first flurry of press reports over free phones and 10-cent-per-call leasing. In an interview, he said Trippi's statement about the price Mondale was paying was simply wrong. The full price, whatever it turns out to be, will be paid.

"We have felt that it was incumbent on us to be very careful, very cautious, to stay within the limits of what the Federal Election Commission allows. I am absolutely sure we have been infinitely more cautious than any other political campaign going back to 1980 or 1976."

Paying the "fair market value" for anything leased from the unions is a basic rule of the Mondale campaign, and any FEC investigation will surely find that has been the case, Mr. Jensen says.

Even if the FEC launches an investigation of Mondale spending in Iowa, there's little chance any official findings could come before the Feb. 20 caucuses. Many FEC studies take years to complete.

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Exhibit 5

In Iowa Chill, Warming to Mondale

Labor Activists Place Old Differences Aside In '84 Organizing Push

By Kathy Sawyer
Washington Post Staff Writer

DES MOINES—In the last presidential race, union activists Chuck Gifford and Jerry Addy would cross snow-covered streets to avoid each other, muttering a few dirty names. One's union was working for President Carter, the other's for Sen. Edward M. Kennedy (D-Mass.).

Last Saturday, the United Auto Workers member sat down in unprecedented semi-harmony in the same hall with the Operating Engineers member and about 200 other union officials from across the state. Snowplow drivers, ironworkers, restaurant workers, machinists, plumbers, telephone company workers and grain millers—all had agreed to check their ancient rivalries at the door.

They were there, in the first state to begin its presidential delegation-selection process, to receive minutely detailed marching orders for a massive mobilization of the state's union members, earlier than ever before and united for the first time behind one candidate: Walter F. Mondale.

"The eyes of the national labor movement are on you here," John Perkins, director of the Committee on Political Education, the AFL-CIO's political arm, told the gathering. He warned them that if their performance doesn't measure up, their influence will suffer not just in national politics but they'll be scorned as a "paper tiger" in their back yards as well.

The labor federation's battle plan for the state—bolstered by national staff and money—calls for rank-and-file union members to be contacted up to seven times each in coming weeks—by phone, mail and in person where they work. The name of the game is to identify and turn out Mondale supporters to the precinct caucuses on Feb. 20, the first step in choosing Iowa's 58 delegates to the Democratic National Convention.

Mark Smith, an official of the state labor federation, told the group that it is a key level in a program that works "like a pyramid scam .... If one person breaks the chain, the whole thing goes to hell." Smith outlined the basic mechanics of the operation, handed out computerized mailing lists, a "cue card" spelling out what to say when they call to recruit volunteers and lists of training meeting sites.

Smith's refinements went as far as instructing them that when they recruit a volunteer to serve as union precinct coordinator, "put a red 'u' in the left margin." The lists of newly recruited volunteers have to be turned in by Dec. 22, he said, and the same printout would be used in the next phase, "so don't leave 'em where the dog can get 'em."

State labor leaders are recruiting thousands of precinct captains, union coordinators for wards and towns, and others. They plan to recruit up to 1,200 volunteers to "caucus schools."

Also last weekend, the American Federation of State, County and Municipal Employes and several other unions were gearing up phone banks, with a total of 189 phones across the state.

"Once they're up, we'll be making 57,000 phone call attempts a week," said Will Robinson of AFCSME, Mondale's state labor liaison.

While AFCSME workers worked the phones at the Des Moines local, personalized form letters ("Dear Marcella") marched steadily out of a bank of four automated word-processing machines up the hall: "One letter to every member coming off in continuous feed, presorted by zip code, post-dated for after the Christmas rush," Robinson said.

Listening to the soft whir and tick of the equipment, he smiled.

"Ah, the sound of soft money," he said, referring to the fact that labor's "educational" communications to its membership do not count against its candidate's campaign spending limits.

There is still some bitter infighting within the ranks of labor here, reportedly most heated between the building trades and the state federation, primarily over who is calling the shots as the operation procedes.

But the main ingredient missing from their victory formula, by all accounts, is intensity.

There is no Carter-Kennedy fight or Iranian hostage crisis, which cranked up the folks to slog through the frigid snowbanks in 1980. The union officials clapped and cheered when Perkins mentioned Rep. Tom Harkin (D-Iowa), the Democratic Senate candidate, but remained silent at the sound of Mondale's name. Said George Brown of the Iowa State Education Association, "There seems to be a reluctance among the people to get really hyped about it .... Mondale *is* like an old shoe." But, he added, "he's a damn *comfortable* old shoe."

Polls currently show Mondale running well ahead of Sens. John Glenn (D-Ohio) and Alan Cranston (D-Calif.), and he looks nearly unbeatable if his backers in organized labor perform as advertised.

The caucus system is tailor-made for the sort of organizational shoe leather that labor can marshal. It requires "hand-holding," getting a candidate's supporters to turn out, blizzard or not, and sit through hours of meetings.

The state AFL-CIO claims 100,000 members in the state. The UAW has an additional 44,000, though a staggering one-third have been laid off since 1980. Four years ago, they report, they turned out 8,000 to 10,000 members for the caucuses.

Exhibit 6

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The Washington Post

Tuesday, February, 14, 1984

Alabama Unionists Aid Mondale's Effort

By Kathy Sawyer
Washington Post Staff Writer

BIRMINGHAM, Ala.—A black, unemployed steelworker named Inez Davis sat at a metal table and worked diligently into the night at a labor union phone bank south of town, behind Red Mountain, mustering support for Democratic presidential contender Walter F. Mondale.

She supports Mondale, and not black candidate Jesse L. Jackson, Davis said softly, because "I'm a strong union person, and anyway a lot of blacks feel he [Jackson] needs a little more experience."

But then she demonstrated why Mondale supporters are anxious, adding, "My own feeling is you can't ever know what a person can do until you give him a chance."

Alabama is not considered a strong state for organized labor, but it is the strongest of any in the South. And the state's March 13 primary, in which labor-backed Mondale and Sen. John Glenn (D-Ohio) are leading the field, could hinge on the marginal difference such an organization sometimes makes.

For Glenn, the state is a "must win," according to his Alabama political director, Clay Henderson.

The state's AFL-CIO unions, with a dues-paying membership of about 190,000, plus about 35,000 laid off members, are mounting their most ambitious and unified effort, their leaders say. It is paralleled by the activity of the 53,000-member Alabama affiliate of the National Education Association, the giant teachers union.

Their memberships are one-fifth and one-third black, respectively. And they find themselves in the middle of an intensifying political tug-of-war that is testing the ancient relationships and the new priorities of both [illegible]

Alabama's white union members tend to be more conservative than Mondale, and at least two building trades officials have defected to Glenn. The state's black union members are subject to the tidal pull of Jackson's candidacy.

"They tell us they're going for Mondale," said state AFL-CIO political director Jim Albright, speaking of the black members. "But I look into those dark brown eyes, and I wonder."

Joe Reed, the influential black leader of the Alabama Education Association and head of the black Alabama Democratic Conference, has fought to hold the line for Mondale among blacks. But he and others say that Jackson is having substantial impact.

"Jesse's campaign does more to help Glenn than anything else," Reed said.

A Glenn aide reinforced this when he observed that many of the white conservatives in southern Alabama, where Glenn is counting on heavy support, mention frequently their belief that Jackson will be Mondale's running mate. Reed's black conference may have contributed to the impression late last year when it voted to endorse Mondale for president and, to soften the blow for Jackson, to endorse him for vice president.

"You put Mondale and labor and Jackson all together and these folks [in the South] don't want any part of it," the Glenn aide said.

John Perkins, head of the AFL-CIO's national political arm, noted that Jackson's inroads have prompted his operation to take "special steps," creating the United Black Labor Committee for Mondale.

While labor unions, along with most other institutions, have discriminated against blacks, they also have afforded some of what little protection and aid existed for blacks in the South during the upheavals of the 1950s and 1960s—not only in the work place but in the streets, both black and white leaders here say.

Though Glenn seems to be doing less well than expected here, his appeal to a conservative constituency has resulted in encouraging turnouts by the rank and file at several recent plant-gate appearances.

And he captured an early prize, the endorsement and active support of Bill Baxley, the state's lieutenant governor and organized labor's most popular champion here. Most other top state officials also are working for Glenn.

In addition, Glenn has found a couple of chinks in labor's official unity. Aides say those chinks are an indicator that rank-and-file union members support the former astronaut.

As Glenn's daughter, Lyn Glenn Freedman, shook hands with clerks at the county courthouse on a campaign swing here recently, her entourage included the head of the Sheet Metal Workers local—a rare defector from labor's endorsement of Mondale at the official level.

"I just think Glenn's ideas fit more in the mainstream of how our guys think," said John L. Campbell, head of the 700-member local, who is running as a Glenn delegate.

The Sheet Metal Workers International is among the few unions that opposed labor's unprecedented early endorsement of Mondale.

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Exhibit 7

Glenn aides discount the importance of labor's organization in a rural state with a primary rather than the more structured caucus system. They argue that broader appeals work better here. But Mondale supporters counter that having the labor organization is better than no organization.

Inez Davis and the other 17 callers, unemployed union members being paid for their services, completed 14,000 calls in the first 10 days of the phone bank here, one of 16 such operations statewide that have a total of 116 paid operators and about two dozen volunteers.

Early, informal reports from the phone banks show union voters supporting Mondale by 3 to 1, according to Albright, who termed the finding a pleasant surprise, if it can be believed. He is concerned about the number of undecideds, he added, and about getting people to the polls.

The first round of calls will be followed by mailings, tailored to Mondale supporters and undecideds. Then there is to be another round of calls and more letters—either selling Mondale or trying to persuade Mondale supporters to get active. Finally, a third round will be intended to turn out the Mondale voters.

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Labor

Embattled Unions Get Their Act Together

AFL-CIO units are pooling money and manpower in a bid to reverse the decline of organized labor's power.

HOLLYWOOD, Fla.

Determined to revive its once formidable power and show that it is still a force to be reckoned with, organized labor is starting to pull together as never before.

Dogged in years past by divided loyalties and rivalries, union leaders are closing ranks within the AFL-CIO to coordinate resources and work around their often fractious interests.

The united front the federation is seeking to build passed its first test here in early October when the AFL-CIO agreed to launch a tradition-shattering political offensive to win former Vice President Walter Mondale the Democratic nomination for President.

To veteran unionists, the action underscores deepening awareness among a broad spectrum of the AFL-CIO leadership that only by moving as one on critical issues can it hope to reverse the decline of organized labor.

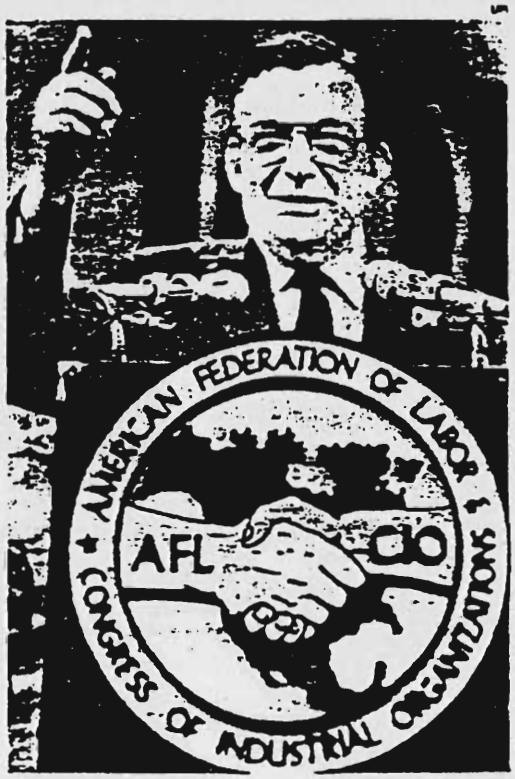
As a result, union leaders are showing far greater willingness to put aside longstanding differences and to pool money and manpower for activities ranging from regional organizing to voter-registration drives.

"I have never seen the labor movement this united before," says Evelyn Dubrow, chief lobbyist for the International Ladies' Garment Workers Union. "Everyone is working together."

Urgent priority. The greater emphasis on union cooperation is coming from the top. "Above all," declares federation President Lane Kirkland, "we need unity and a sense of common purpose."

A show of force can't come too soon. Besides its flagging political influence, trade unionism is suffering from a wide array of ailments that undermine its traditional sources of strength—

- High unemployment brought on by recession and upheavals in basic industries has decimated the membership rolls of unions. Since 1981, unions affiliated with the AFL-CIO have lost 1.2 million members, and unions, over all, now represent less than 21 percent of the nation's labor force—the smallest share since the end of World War II.
- Unions are finding it harder to organize new groups of workers. In 1981, they won only 43.1 percent of representation elections—down from 48.1 percent in 1976 and 53.2 percent in 1971.
- Organized labor is having particular trouble enlisting people employed in new high-tech industries. One study by the American Electronics Association shows that management defeated unions in 30 of 37 government-supervised elections from 1977 to 1982. As of September, 1982, there were only 90 union contracts among the 1,900 members of the association.
- After decades of almost uninterrupted gains in wages and benefits for their members, many unions have had to grant contract concessions involving wage freezes and givebacks. In the first half of this year, major labor contracts resulted in average annual wage increases of 2.7 percent—the lowest increase in the 15 years the government has kept statistics.
- A new breed of management consultant, derided as "union busters" by organized labor, is having increasing success keeping employers union-free or ridding them of union shops altogether. The AFL-CIO says all of the more than 400 firms, employing 6,000 practitioners, have orchestrated at least one counterorganizing or union-decertification drive, and such firms now participate on the employer's side in three fourths of all organizing campaigns.
- Major legislative priorities, such as massive public-works projects and job programs, are stymied in Washington by a Republican administration working in concert with a GOP-controlled Senate.



AFL-CIO president for four years, Lane Kirkland seeks new unity for organized labor.

Against this background, Kirkland has lined up broad leadership support within the AFL-CIO for the direction in which he is taking the federation.

Only the second president in the AFL-CIO's history, Kirkland won an overwhelming vote of confidence for his policies when delegates, in convention here, re-elected him to his third two-year term as head of the 13.7-million-member federation.

Consensus builder. Acclaim for his performance since succeeding George Meany in 1979 is widespread. "He's outstanding," says John Sweeney, president of the 580,000-member Service Employes International Union.

Unlike his predecessor, Kirkland has won the allegiance of the leadership through a process of consensus building. Where Meany was viewed as high-handed, Kirkland is seen as solicitous. One veteran unionist says that while Meany discouraged dissent, Kirkland has gone out of his way to hear differences of opinion.

"Lane has won the trust of the leadership because he's supportive of them even when they are in disagreement," says Dubrow. "He has really established his own identity."

According to top union leaders, it was Kirkland who masterminded the AFL-CIO's decision to endorse a presidential contender prior to the Democratic national convention.

Until now, individual unions have gone their own way in the primaries, supporting a variety of candidates. By working at cross-purposes this way, AFL-CIO leaders concluded, unions diluted labor's influence over the selection process.

Looking to years ahead. Labor leaders say Kirkland was also determined to use the endorsement process as a way to further bind the labor movement together in ways that will go far beyond the political arena.

What Kirkland and others have in mind, union strategists say, is still greater emphasis in coming years on cooperative organizing efforts

Exhibit 8

Walter Mondale gets labor support in his bid for the Democratic presidential nomination.

that concentrate all union resources in a single region for maximum impact.

The model for these activities is an organizing campaign in the Los Angeles area including some 40 international unions, which have organized more than 400,000 new AFL-CIO members through elections or voluntary agreements. Since the beginning of this year, the effort has paid off in 22 election victories encompassing 2,858 employes—compared with four losses involving 449 employes.

Other organizing drives have begun. In its first year and a half, a program in Houston including 29 unions brought in more than 6,000 new members. In 1982, a drive in Arkansas and Oklahoma produced 19 victories involving 2,842 employes and four losses affecting 327 employes.

Rallies, parades. Another way Kirkland is fostering union-to-union contacts is through large public demonstrations involving rank-and-file members. The federation's sponsorship on Labor Day of 151 rallies, parades and demonstrations brought out 1.3 million union supporters across the country to decry high unemployment and the policies of the Reagan administration.

Better communication among federation affiliates is being used to fight what labor leaders consider anti-union management consultants. A report on their activities and tactics is now sent monthly to 10,000 union leaders and organizers around the country who attend training seminars on how unions can counterattack.

Still more connections between unions will be made during the campaign for Mondale.

In working together during the primaries, AFL-CIO unions for the first time will come into active day-in, day-out contact with each other's members for a common cause—getting Mondale the nomination.

According to Bill Holayter, director of legislative and political action for the International Association of Machinists, "We'll all be going down the same road instead of battling one another. What this does is greatly expand our field of vision."

In mobilizing support for Mondale, for example, one union's telephone canvassers will be allowed for the first time to provide direct help to another union that needs to reach its members.

"Our people may wind up calling on Communications Workers members in some states, and their people may call our members in other states," says Holayter. "That's unheard of. We've never done anything like this before."

Already, the prospect of an all-out federation campaign is generating intense preparation in member unions.

The Amalgamated Clothing and Textile Workers Union, for example, plans an extensive drive to get 30 percent more of its members registered to vote in New York State, where it has some 70,000 members.

Unions are also setting much more ambitious goals for political fund raising than they ever have before. Jack Sheinkman, secretary-treasurer of the Textile Workers, says the union intends to raise about $500,000 in 1984—double what it was able to raise for 1982.

The Service Employes Union has set a target of 84 cents per member to be raised in voluntary contributions for political activities between now and the 1984 elections—up from 25 cents per member in 1982. The higher figure should generate at least $250,000, compared with $150,000 in 1982.

Gains in 1982. Although the AFL-CIO still has too few friends on Capitol Hill to insure passage of its programs, labor's money efforts are starting to bear fruit. With labor contributions up more than 40 percent in 1982 over 1980, 64.5 percent of labor-endorsed candidates for the Congress and for governor won election. Until then, labor's success rate had been falling—from 71 percent in 1976 to 66 percent in 1978 and 60 percent in 1980.

In support of Mondale's bid for the nomination, the unions will also be looking to increase the number of delegate seats they get at the Democratic national convention. Service Employes members, for example, had 17 seats as delegates and alternates in 1980 but expect to get 30 to 35 for the 1984 convention. Over all, AFL-CIO unions had more than 400 delegates in 1980 and anticipate a larger number next year.

For all the potential benefits that labor stands to reap by making an endorsement early, there are hazards too. A major worry among some union leaders is that Mondale will fade as a candidate during the primaries, leaving the AFL-CIO with a lost cause on its hands.

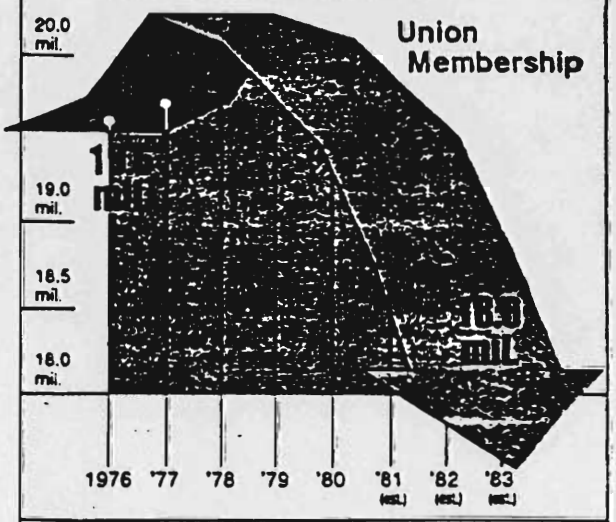
Calculated risk. "It's a gamble," says Martin Hughes, an international vice president of the Communications Workers of America, president of the Cleveland AFL-CIO and a supporter of Democratic hopeful John Glenn. "It could be a disaster because we may well have picked a candidate who's not even in the race."

That would wipe out labor's opportunity to play kingmaker in the election, a role that, if successful, could go a long way toward restoring labor's influence.

Still, most union leaders are convinced that the process is worth the risk if labor is going to be a powerful force again. "What we're doing is as important as who we back," observes UAW Vice President Donald Ephlin. "The labor movement needs to find its voice again." □

By CAREY W. ENGLISH

Numbers That Mean Trouble



Union membership, at its lowest point since 1966, now amounts to just 20% of the nonfarm work force, vs. 28% in 1965.

USN&WR—Basic data: U.S. Dept. of Labor, estimates by USN&WR Economic Unit

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TODAY SHOW
NBC-TV
February 9, 1984
7:00 AM
KEN BODE REPORT: CAMPAIGN FINANCING

Connie Chun — And Bode's Journal shows us how presidential candidates resort to creative bookkeeping to get around election laws.

Bode's Journal this morning looks at federal campaign spending laws; whether they're working or are they just a joke. Here's national correspondent, political correspondent, Ken Bode on the campaign trail.

Ken Bode — I'm standing on the border of Iowa, the first caucus state. This is a story about state borders, federal campaign laws and tricky bookkeeping to get around those laws. The story actually begins in New Hampshire, the first primary state. Walter Mondale has ten headquarters in New Hampshire.

Phone Bank Employee — At 9:30 he begins his day in Townsford, MA . . .

Ken Bode — The Federal Election Commission says you may only spend $391,000 in New Hampshire. One way to stay under that cap is to sleep across the border. Campaign in New Hampshire during the day.

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Exhibit 9

Charles Campion - Mondale's New Hampshire Coordinator

1983, he spent 27 days here. We just moved from backyard to living room to high schools. 27 days in 1983, he's been here 7 days already, I would assume he'll spend a good deal more.

Ken Bode

Other campaigns suspect that Mondale will violate the New Hampshire spending limit this year as Kennedy, Carter and Reagan all did in 1980. And as both Udall and Reagan did in 1976. In 1980, Reagan proved himself a master at ducking the spending limits. He and Nancy slept in Massachusetts. Each day their motorcade headed up to New Hampshire, he campaigned there all day and back to Massachusetts for nighty-night. He did the same thing for several days, each night back to Massachusetts. All charged against Massachusetts, not New Hampshire. Initially the Federal Election Commission found that Reagan had overspent New Hampshire by $137,000; 47% above the cap. Jim Gaffney was the building engineer at the motel where the Reagans stayed. And how long did they stay there?

Jim Gaffney

Approximately a week. He stayed here while he was doing his campaigning in New Hampshire. You know, just up the street a little bit.

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Ken Bode	After he became President, Mr. Reagan's persuasive lawyers convinced the FEC to cut the amount of his overspending by half. Remember this famous scene?
President Reagan	I am paying for this microphone, Mr. . . .
Ken Bode	Later Reagan claimed the other five guys should have paid for it too. Four of them never got to say a word.
Campaign Worker	Good evening, Glenn campaign.
Ken Bode	This year the Glenn campaign is watching Mondale's spending very closely.
Paul Shone - Glenn's New Hampshire manager	We have a computer here that keeps track of that. I have a budget director here that keeps tract of that.
Ken Bode	Not only does he keep Glenn's budget, but he fiddles around with the Mondale budget as well. It's known, for example, that Mondale spent $31,203 on rental cars in Massachusetts. In New Hampshire, $81.40. Tricky bookkeeping? Then there's the matter of telephones. Labor has endorsed Mondale and is making "independent expenditures" on his behalf. So, how many phones do they have in the state?
Charles Campion	I'm not sure of the exact number to tell you the truth. They have them, but they have phone banks and phones that they have in existing offices.

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Ken Bode	You don't know how many they have?
Charles Campion	I think it's over 100, but I'm not sure exactly the number to tell you the truth.
Ken Bode	And who deals with labor for the Mondale campaign?
Charles Campion	Well Charlie Start is the AFL-CIO employee here. I talk to them and then he and I talk back and forth you know. But he really has their own program going.
Ken Bode	The Mondale people leaseback the union phones, thereby saving installation costs.
Paul Shone - Glenn's campaign manager	On a leaseback arrangement the question is whether they are paying fair market value for the phones which according to the law is what needs to be done or if you are paying for the cost of phones. If you are paying for the cost of the phones it is not according to the rules.
Ken Bode	How much do you pay them?
Charles Campion	I'm not sure, we submit that to Washington, who pays it.
Ken Bode	Okay, let's check Iowa. Labor claims they have phones in 19 locations, 250 in all. These are labor phones operating in Sioux City.
Campaign Worker	Ok, thanks for your support

8504042707

Ken Bode

On Monday night the Mondale campaign leased these phones. They paid 10¢ a call. That saved half the cost over a payphone. It also saves the Mondale folks the cost of installing their own phones.

On Tuesday night, while the Mondale people worked downstairs in their office, labor volunteers took over the phones.

In 12 additional locations including here in Cedar Rapids, Mondale leases headquarter's space from unions.

Here we are back on the Iowa border. Campaign bookkeeping is a borderline business. Is everything you've seen today legal, or will it turn out to be overspending and collusion between Mondale and the unions? Well, we probably won't know for sure until about 2 years from now when the Federal Election Commission finally completes its audit.

Back to New York.

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National Right to Work Committee
A COALITION OF EMPLOYEES AND EMPLOYERS
HEADQUARTERS AT THE NATION'S CAPITAL

March 2, 1984

Mr. Bud Hettinga
645 Compress Road
Las Cruces, NM 88001

Dear Bud:

Enclosed is the rebuttal letter to the Federal Election Commission along with 3 copies of the complaint. All three copies are to signed and notarized with the notary seal affixed and all three filed with the FEC.

Our attorney suggests that you keep a copy for yourself, and he would like a copy of the signature pages only.

Since the 15-day period of confidentiality ends on 3/7/84, mail the whole package to the FEC by Federal Express.

If you have any questions regarding this after you receive it, please give me a call.

Best wishes.

Sincerely,

Ruth Ann

Ruth Ann Hoel
Director, State Legislation

/rah
Enclosures

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

THIS IS THE BEGINNING OF MUR # 1641

Date Filmed 8/13/85 Camera No. --- 2

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