



FEDERAL ELECTION COMMISSION

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

THIS IS THE END OF MUR # 1778

Date Filmed 1/10/85 Camera No. --- 2

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85040510702

MUR 1778

FEDERAL ELECTION COMMISSION

12 day report / response - duplicate letters
instruction from docke / Ken -
routing slips

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

Matthew R. ...

date

1/4/84

35040510703



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 12, 1984

William A. Wilson
Vice President
The National Right to
Work Committee
8001 Braddock Road
Suite 500
Springfield, Virginia 22160

Re: MUR 1778

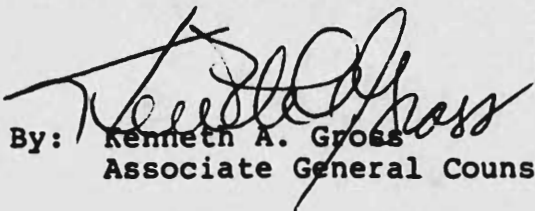
Dear Mr. Wilson:

The Federal Election Commission has reviewed the allegations of your complaint dated September 6, 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 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

35040510704



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 12, 1984

Mr. Robert Kurnick
Sherman, Dunn, Cohen, Leifer
& Counts, P.C.
1125 15th Street, N.W.
Suite 801
Washington, D.C. 20005

RE: MUR 1778
International Brotherhood of
Electrical Workers Local 443

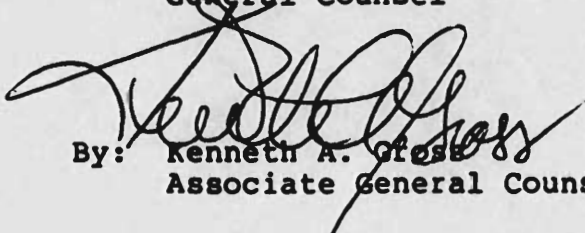
Dear Mr. Kurnick:

On September 14, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on December 10, 1984, determined that on the basis of the information in the complaint, and information provided by you, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By: 
Kenneth A. Giese
Associate General Counsel

35040510705



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 12, 1984

Ralph Martin (Bud) Hettinga, Jr.
645 Compress Road
Las Cruces, New Mexico 88001

Re: MUR 1778

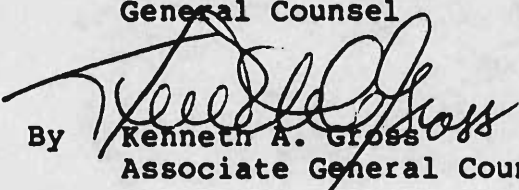
Dear Mr. Hettinga:

The Federal Election Commission has reviewed the allegations of your complaint dated September 6, 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 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

35040510706



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 12, 1984

Mr. Michael S. Berman, Treasurer
Mondale for President
Committee, Inc.
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007
Attn: David Ifshin
Carolyn U. Oliphant

Re: MUR 1778

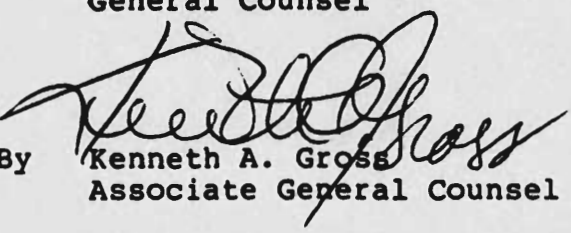
Dear Mr. Berman:

On September 14, 1984, the Commission notified the Mondale for President Committee and you, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on December 10, 1984, determined that on the basis of the information in the complaint, and information provided by your committee, 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

35040510707

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Mondale for President Committee, Inc.)

Michael S. Berman, treasurer)

International Brotherhood of Electrical)

Workers Local 443)

MUR 1778

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on December 10, 1984, the Commission decided by a vote of 5-0 to take the following actions in MUR 1778:

1. Find no reason to believe that the International Brotherhood of Electrical Workers Local 443 violated the Federal Election Campaign Act, as amended.
2. Find no reason to believe that the Mondale for President Committee and Michael S. Berman, as treasurer, violated the Federal Election Campaign Act, as amended.
3. Approve the letters attached to the First General Counsel's Report signed December 5, 1984.
4. Close the file.

Commissioners Aikens, Elliott, Harris, McGarry and Reiche voted affirmatively in this matter; Commissioner McDonald did not cast a vote.

Attest:

12-11-84

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

Received in Office of Commission Secretary:
Circulated on 48 hour tally basis:

12-6-84, 10:01
12-6-84, 4:00

35040510708



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary
FROM: Office of General Counsel *Cut*
DATE: December 6, 1984
SUBJECT: MUR 1778 - First General Counsel's Report

The attached is submitted as an Agenda document
for the Commission Meeting of _____
Open Session _____
Closed Session _____

CIRCULATIONS

48 Hour Tally Vote [X]
Sensitive [X]
Non-Sensitive []

24 Hour No Objection []
Sensitive []
Non-Sensitive []

Information []
Sensitive []
Non-Sensitive []

Other []

DISTRIBUTION

Compliance [X]
Audit Matters []

Litigation []
Closed MUR Letters []

Status Sheets []
Advisory Opinions []

Other (see distribution below) []

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SENSITIVE

RECEIVED
OFFICE OF THE FEC
SECRETARY

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

84 DEC 6 AIO: 01

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL BY
OGC TO THE COMMISSION 12/6/84
9:50

MUR NO. 1778
DATE COMPLAINT RECEIVED BY
OGC: September 6, 1984
DATE OF NOTIFICATION TO
RESPONDENT: September 14, 1984
STAFF MEMBER
Matthew Gerson

COMPLAINANTS' NAMES: Ralph Martin (Bud) Hettinga, Jr.
The National Right to Work Committee

RESPONDENTS' NAMES: Mondale for President Committee, Inc.
Michael S. Berman, as treasurer
International Brotherhood of Electrical
Workers Local 443

RELEVANT STATUTES: 2 U.S.C. § 441b
11 C.F.R. § 100.7(a) (2)
11 C.F.R. § 114.3(c) (3)

INTERNAL REPORTS
CHECKED: Public Documents

FEDERAL AGENCIES
CHECKED: None

SUMMARY OF ALLEGATIONS

On September 6, 1984, Ralph Martin (Bud) Hettinga, Jr. and the National Right to Work Committee filed a complaint alleging that the International Brotherhood of Electrical Workers Local 443 (hereinafter the "IBEW") in Montgomery, Alabama maintained a telephone bank during Alabama's 1984 presidential primary in an effort to "get-out-the-vote" and, contrary to 2 U.S.C. § 441b, made partisan solicitations beyond the restricted class.

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A second possible violation came to light during the General Counsel's review of the complaint. Jeffrey Saunders, complainant's affiant, relates that he was asked by the local Mondale headquarters to deliver T-shirts to an IBEW representative. Because any amount paid for a fundraising item sold by a political committee is a contribution to that political committee, this transaction may have violated the Act's prohibition against labor organization contributions implicating the IBEW in a second violation. 11 C.F.R. § 100.7(a)(2).

Accordingly, while the Mondale for President Committee (hereinafter "MPC") was not named in the complaint, it may have violated 2 U.S.C. § 441b(a) by accepting unlawful contributions.

On October 1, 1984, the MPC filed a response. On October 12, 1984, IBEW filed a response after having requested an extension of time in which to answer.

FACTUAL AND LEGAL ANALYSIS

This complaint is based on private investigator Jeffrey Saunders' affidavit. See Attachment 1. According to Mr. Saunders, he was volunteering for a phone bank organized by the Montgomery, Alabama Mondale office when an individual named Richard Carter told him that "he believed the AFL-CIO was conducting a telephone bank out of a building on Atlanta Highway." Two days later, an individual named Sutton stated to Mr. Saunders that the AFL-CIO was conducting a telephone bank out of the IBEW building located on Atlanta Highway. Mr. Saunders states that Sutton said that "the union was calling members initially, but may have

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started calling 'civilians' as there were not many union members in Montgomery." (Emphasis added). Mr. Saunders also stated that he was asked to deliver 52 Mondale T-shirts to the IBEW and adds, "the IBEW was going to sell them." While at the IBEW office, Tom Jones told him "that they had had a successful telephone bank and from what he had observed, they had four to six people calling everyone who had ever thought of having any connection with organized labor." It does not appear that Mr. Saunders ever saw the union's telephone bank in operation or spoke to any individual who actually called non-union members. It does not appear that he observed T-shirt sales, either.

The IBEW's response states that IBEW did not operate a phone bank. Rather, IBEW asserts that the AFL-CIO, which has an office in the same building as the IBEW, operated the phone bank in question. IBEW's response includes an affidavit from phone bank supervisor Brenda Gregory of the Communications Workers of America Local #10908. See Attachment 2. Ms. Gregory states that she "obtained a list of all current union members" prior to operating the phone bank and called from "the Central Labor Council office" and other appropriate union offices. According to Ms. Gregory, "only active union members were called from this telephone bank." She states "unequivocally" that "(Saunders') affidavit is incorrect." In a second affidavit, Tom Jones, the person to whom Mr. Saunders allegedly delivered the T-shirts, denies making the statements that Saunders attributes to him. See Attachment 3. Mr. Jones also says that he had never previously sat in the union hall to answer phones and "had no

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conversation with anyone in regards to telephone banks." He adds, "a young woman" delivered the Mondale T-shirts.

The MPC's response addresses the phone bank question but emphasizes that the complaint only mentions the Mondale campaign in connection with the T-shirt transfer. See Attachment 4. MPC asserts that "the affiant does not provide the name of any individual who allegedly gave him the T-shirts nor does he explain the basis for his conclusion that the IBEW was going to sell them. Moreover, there is no evidence that any T-shirts were in fact sold." The response notes that "during the primaries, T-shirts were distributed by MPC through its state offices. While it is conceivable that some of the shirts ended up in Alabama, they generally were distributed to supporters without charge."

The IBEW is a 2 U.S.C. § 441b(b)(1) "labor organization." As such, the organization can use general union funds to establish and operate phone banks to communicate with organization members and executive or administrative personnel, and their families urging them to vote for a particular candidate. 2 U.S.C. § 441b(b)(2)(a) and 11 C.F.R. § 114.3(c)(3). The labor organization cannot communicate with members of the general public.

Complainant's allegation that IBEW operated a phone bank and called non-union members is unsupported. Mr. Saunders did not call a non-union member on IBEW's behalf nor observe anyone else doing so. Indeed, the IBEW asserts that it never conducted a telephone bank from which it could have violated the Act. Respondent explains that the AFL-CIO's Central Labor Council

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operated a phone bank and includes an affidavit from Ms. Gregory which states that the AFL-CIO followed a procedure especially designed to limit calls to members of AFL-CIO affiliates. The Office of General Counsel, therefore, recommends that the Commission find no reason to believe that the IBEW violated the Act.

Mr. Saunders states that "he was asked by the Montgomery (Mondale) headquarters to take 52 Mondale T-shirts to Tom Jones at the IBEW. The IBEW is going to sell them." We do not know who paid for the T-shirts or how they were distributed. If the IBEW paid MPC for the T-shirts, the transaction may violate the Act's prohibition against labor organization contributions since any amount paid for a fundraising item sold by a political committee is a contribution under 2 U.S.C. § 441b and 11 C.F.R. § 100.7(a)(2).

Mr. Saunders does not support his statement that the IBEW was going to sell them. There is absolutely no evidence that they were sold nor that the union paid for them. If, as MPC's response contends, "the shirts were distributed to supporters without charge," there is no violation. The Office of General Counsel recommends, therefore, that the Commission find no reason to believe that the T-shirt exchange violated the Act.

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RECOMMENDATIONS

1. Find no reason to believe that the International Brotherhood of Electrical Workers Local 443 violated the Federal Election Campaign Act, as amended.
2. Find no reason to believe that the Mondale for President Committee and Michael S. Berman, as treasurer, violated the Federal Election Campaign Act, as amended.
3. Approve the attached letters.
4. Close the file.

Charles N. Steele
General Counsel

Dec. 5, 1984
Date

BY: 
Kenneth A. Gross
Associate General Counsel

Attachments

1. Jeffrey Saunders' affidavit
2. Brenda Gregory's affidavit
3. Tom Jones' affidavit
4. Mondale for President Committee's response
5. Letters to Respondents
6. Letters to Complainants

35040510715

AFFIDAVIT

STATE OF VIRGINIA)

COUNTY OF FAIRFAX)

SS:

I, Jeffrey Saunders, being first duly sworn, depose and state:

1. I am an investigator with the firm of Associated Investigators, Inc., 1025 Vermont Avenue, N.W., Washington, D.C. 20005.

2. While investigating possible union violations of the federal election laws, I performed volunteer telephone work for Mondale's presidential campaign, located at 492 South Court Street, Montgomery, Alabama 36104, Telephone No. 205-265-4085. The telephone work was conducted at the Alabama Education Association headquarters, 422 Dexter Street, Montgomery, Alabama 36104, Telephone No. 205-834-9790.

3. While I was working at the phone bank on Thursday, March 8, 1984, an individual named Richard Carter told to me that he believed the AFL-CIO was conducting a telephone bank out of a building on Atlanta Highway. He did not know the address.

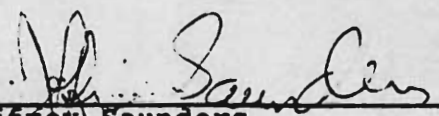
4. On Sunday, March 11, 1984, an individual named Randy Sutton stated that the AFL-CIO was conducting a telephone bank out of the International Brotherhood of Electrical Workers' building, located at 3381 Atlanta Highway. He also said that the union was calling union members initially, but may have started calling "civilians" as there were not many union members in Montgomery.

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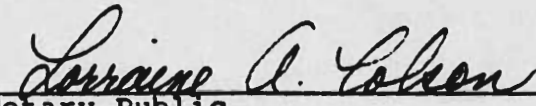
(1)

5. On Tuesday, March 13, 1984, at 11:45 a.m., I was asked by the Mondale Montgomery headquarters to take fifty-two (52) Mondale tee-shirts to Tom Jones at the IBEW. The IBEW was going to sell them. Tom Jones was the only person at the union offices when I arrived. In the conversation that ensued, Jones stated that they had had a successful telephone bank from what he had observed. They had four to six people calling everyone "who had ever thought of having any connection with organized labor." He also stated that they had been calling beyond the immediate Montgomery area.

Further affiant sayeth not.


Jeffrey Saunders

Subscribed and sworn to before me, a notary public, this 21st day of August, 1984.


Notary Public

My Commission expires: November 30, 1987

STATE OF ALABAMA §
MONTGOMERY COUNTY §

AFFADAVIT

COMES Brenda Gregory, a resident of Montgomery County, Alabama, and a member of the Communication Workers of America, Local #10908, and first being duly sworn, states as follows:

On or before March 13, 1984, the Central Labor Council of the AFL-CIO operated a telephone bank for the purposes of encouraging union members to participate in the March 13, 1984 primary election. Becky Hilyer and myself were responsible for the operation of the telephone bank. Prior to operating the telephone bank we obtained a list of all current union members and these persons were called from the Central Labor Council office and the offices of appropriate labor unions. To our knowledge only active union members were called from this telephone bank. The local unions did not furnish long distance phone lines, as COPE picked up the cost of WATS lines, which were used to call union members.

I have observed the affidavit of Jeffrey Saunders, dated August 21st, 1984, and I can state unequivocally that this affidavit is incorrect.

GIVEN THIS the 11 day of October, 1984.

Brenda S. Gregory
Brenda Gregory

SWORN TO and SUBSCRIBED TO before me, the undersigned Notary Public, this the 11 day of October, 1984.

[Signature]
Notary Public

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STATE OF ALABAMA

MONTGOMERY COUNTY

AFFIDAVIT

Comes, Tom Jones, a resident of Autauga County, Alabama, and a member of International Brotherhood of Electrical Workers local 443, and first being duly sworn states as follows:

On March 13, 1984, I was sitting in at the Union Hall, answering the telephones, while Ed Barnes, the Union Business Manager, was out of the office. On that day a young woman brought approximately fifty (50) Mondale T-shirts by the office. I had no idea of the reason the T-shirts were delivered to the office or what was to be done with them.

I had no conversation with anyone in regards to telephone banks and I had no information as to whether one was conducted at the Union Hall. Further, I have no information as to any phone bank connected with the International Brotherhood of Electrical Workers local 443 and I have never discussed the International Brotherhood of Electrical Workers conducting a phone bank for the Mondale Campaign with anyone.

Further, March 13, 1984, election day was the first day I had ever sat in the Union Hall to answer the telephone for Ed Barnes and there was no phone bank conducted from the Union Hall on that date. To my knowledge the Union Hall also contains offices for the Central Labor Council of the AFL-CIO, the Alabama Prison Project, the National Association of Letter Carriers, the Postal Workers Union, the Montgomery East Christian Church and is the meeting place for numerous other organizations each of which pays rent.

I have seen the affidavit of Jeffrey Saunders, dated August 21st, 1984, and I made no statements attributed to me.

Sworn to and subscribed before me this 6th day of October, 1984.

Tom Jones
Richard R. [Signature]

October 1, 1984

Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street NW
Washington, D.C. 20463

Re: MUR 1778

Dear Mr. Steele:

85040510720
This letter constitutes the response of the Mondale for President Committee (MPC) to the complaint filed in MUR 1778 on September 6, 1984 by the National Right to Work Committee (NRWC) and Ralph Martin (Bud) Hettinga, Jr. The complaint is one of a series which have been filed by NRWC as part of its deliberate and continuing campaign of using paid spies to infiltrate MPC, and organizations of citizens working on behalf of MPC.

Complainants allege, based on an affidavit from their paid infiltrator, that the named respondent, International Brotherhood of Electrical Workers, Local 443 (IBEW), violated the Federal Election Campaign Act by certain activities undertaken in support of Walter F. Mondale. On September 14, 1984, the Federal Election Commission notified MPC that the complaint in MUR 1778 alleges that MPC may have violated the Federal Election Campaign Act.

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The complaint contains one count, that the IBEW conducted a telephone get-out-the-vote campaign during the presidential primary race of 1984 which was directed in part, at members of the general public in violation of 2 U.S.C. Section 441b.

The sole evidentiary support for this allegation is an affidavit prepared by a person employed by NRWC as part of its ongoing dirty tricks campaign. Specifically, the affiant, allegedly an investigator with Associated Investigators, Inc., testified that "[w]hile investigating possible union violations of the federal election laws, [h]e performed volunteer work for Mondale's presidential campaign, located...[in]...Montgomery, Alabama." While working at the phone bank he further testified that he was told by an individual named Randy Sutton that the AFL-CIO was conducting a telephone bank out of the IBEW building and that initially the union only called its own members but that it "may" have started calling "civilians" because of the limited number of union members in Montgomery. He also testified that he had a conversation with Mr. Tom Jones at one of the union's offices in which Jones stated that their phone bank consisted of four to six people calling everyone "who had ever thought of having any connection with organized labor," and that calls had been made beyond the immediate Montgomery area.

Mr. Saunders is just another in the network of spies organized and paid by NRWC to discredit the political campaigns of candidates it opposes. It was the hope of this organization that such efforts would uncover violations of the Federal Election Act. Unable to meet this goal, the NRWC settled

for filing numerous frivolous complaints against MPC in an effort to discredit the Committee, and to drain MPC's time and resources.

As MPC has stated to the Commission, the conduct of NRWC and its agents is unlawful, morally reprehensible and contrary to the public policies which the Commission is mandated to protect. Moreover, MPC maintains that this conduct so pervades the complaint that no resolution by the Commission other than dismissal is appropriate. Accordingly, MPC urges the Commission to dismiss the complaint forthwith or, alternatively, to strike the affidavit which provides the factual basis for the complaint. See The Motion to Strike Filed by MPC on June 25, 1984 With Respect to MUR 1702, 1703, and 1704 (attached at Appendix A).

MPC further submits that the complaint should be dismissed by the Commission because MPC is not a proper respondent, the complaint lacks credible factual support, and the complaint alleges no facts which, even if considered by the Commission and taken as true, would constitute a violation of the Act by MPC.

1. MPC IS NOT A PROPER RESPONDENT TO THIS MUR

The Commission's compliance procedures provide in part that a complaint identify as a respondent each person or entity who is alleged to have committed a violation of the Act. 11 C.F.R. Section 111.4(d). The Commission's procedures further require that it take no action with respect to complaints which do not comply with 11 C.F.R. Section 111.4. 11 C.F.R. Section 111.5 (b). It is axiomatic that those persons who would invoke the

jurisdiction of an administrative agency must meet the agency's procedural requirements. Thus, the NRWC has no right to proceed against MPC without naming it and identifying specifically MPC's conduct of which it complains. It is further evident that an administrative agency must comply with its own regulations. MPC therefore submits that the Commission should not name MPC as a respondent or proceed against MPC on the basis of this complaint.

The instant complaint does not name MPC as a respondent, nor does it allege that MPC engaged in actions which violate the Act. Indeed, the complaint does not allege that it engaged in any activity at all relevant to the complaint. Rather, MPC has simply been provided a copy of the complaint and left to speculate as to what conduct might be alleged or what theory might be constructed to assert a violation against it.

The Commission's requirement that complaints identify respondents is not a mere technicality. Due process requires that respondents be informed with specificity of the nature of the charges against them and be able to respond meaningfully to those charges to show that no action should be taken. MPC submits that unless and until NRWC identifies MPC as a respondent or directly alleges specific conduct by MPC which would be violative of the Act, no action should be taken against it.

II. THE COMPLAINT ON ITS FACE FAILS TO STATE A CAUSE OF ACTION

The complaint alleges that the IBEW conducted a telephone get-out-the-vote campaign which was directed at members of the general public in violation of 2 U.S.C. Section 441b. However, there is no evidence that, in fact, any person outside union

membership was contacted. Moreover, on the face of the complaint, the alleged activity was consistent with activity that would be perfectly permissible under the Act. See, e.g., 11 C.F.R. Section 114.4 (c) (1) (i).

III. THE SAUNDERS AFFIDAVIT PROVIDES INSUFFICIENT CREDIBLE SUPPORT TO BASE A VALID COMPLAINT

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The affidavit from NRWC's paid spy provides the sole factual support for the complaint. The credibility of this affidavit is open to serious question. There is no dispute that the affiant routinely and extensively lied in the course of his mission. Specifically, Mr. Saunders made false representations that he wanted to volunteer to support the election of Mr. Mondale and he gained access to IBEW offices and to MPC offices under false pretenses. Indeed, in order to justify his fees and continued employment, there was an incentive to manufacture evidence. At a minimum, his statements should be subjected to particularly close scrutiny. His tactics certainly raise fundamental questions as to his credibility as a witness since his own testimony underscores his lack of respect for the truth.

Even if the affiant is determined to be a credible witness, the facts alleged in the affidavit do not support a finding of reason to believe because the testimony contained therein consists solely of the unsubstantiated statements of persons whose relationship to MPC and IBEW, if any, is unknown.

Moreover, the affidavit alleges no facts that are prohibited under the Act.

Indeed, the only mention of MPC is the assertion that the NRW spy was asked to deliver Mondale T-shirts to the IBEW. The affiant does not provide the name of any individual who allegedly gave him the T-shirts nor does he explain the basis for his conclusion that the IBEW was going to sell them. Moreover, there is no evidence that any T-shirts were in fact sold. This supposed episode is not mentioned in the complaint. Even assuming the alleged episode or some version of it actually occurred, there is no resulting violation of the Act. */

*/ During the primaries, T-shirts were distributed by MPC through its state offices. While it is conceivable that some of these shirts ended up in Alabama, they generally were distributed to supporters without charge. Even if the T-shirts in question were MPC T-shirts, and were sold by MPC to union supporters, there would be no violation of the Act since such items can legally be sold as a fundraising device during the primary. 11 C.F.R. Section 100.7(a)(2).

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V. Conclusion

For the reasons set forth above and in MPC's June 25, 1984, Motion to Strike, the Commission should find no reason to believe that MPC has violated the Act and should take no further action in this matter.

Sincerely,

David M. Ifshin

David M. Ifshin
General Counsel

By end

Carolyn U. Oliphant

Carolyn U. Oliphant
Deputy General Counsel

35040510726

3 0 4 0 5 1 0 7 2 7

STATE OF ALABAMA §
MONTGOMERY COUNTY §

AFFADAVIT

COMES Brenda Gregory, a resident of Montgomery County, Alabama, and a member of the Communication Workers of America, Local #10908, and first being duly sworn, states as follows:

On or before March 13, 1984, the Central Labor Council of the AFL-CIO operated a telephone bank for the purposes of encouraging union members to participate in the March 13, 1984 primary election. Becky Hilyer and myself were responsible for the operation of the telephone bank. Prior to operating the telephone bank we obtained a list of all current union members and these persons were called from the Central Labor Council office and the offices of appropriate labor unions. To our knowledge only active union members were called from this telephone bank. The local unions did not furnish long distance phone lines, as COPE picked up the cost of WATTS lines, which were used to call union members.

I have observed the affidavit of Jeffrey Saunders, dated August 21st, 1984, and I can state unequivocally that this affidavit is incorrect.

GIVEN THIS the 11 day of October, 1984.

X Brenda S. Gregory
Brenda Gregory

SWORN TO and SUBSCRIBED TO before me, the undersigned Notary Public, this the 11 day of October, 1984.

[Signature]
Notary Public

STATE OF ALABAMA

MONTGOMERY COUNTY

AFFIDAVIT

Comes, Tom Jones, a resident of Autauga County, Alabama, and a member of International Brotherhood of Electrical Workers Local 443, and first being duly sworn states as follows:

On March 13, 1984, I was sitting in at the Union Hall, answering the telephones, while Ed Barnes, the Union Business Manager, was out of the office. On that day a young woman brought approximately fifty (50) Mondale T-Shirts by the office. I had no idea of the reason the T-Shirts were delivered to the office or what was to be done with them.

I had no conversation with anyone in regards to telephone banks and I had no information as to whether one was conducted at the Union Hall. Further, I have no information as to any phone bank connected with the International Brotherhood of Electrical Workers Local 443 and I have never discussed the International Brotherhood of Electrical Workers conducting a phone bank for the Mondale Campaign with anyone.

Further, March 13, 1984, election day was the first day I had ever sat in the Union Hall to answer the telephone for Ed Barnes and there was no phone bank conducted from the Union Hall on that date. To my knowledge the Union Hall also contains offices for the Central Labor Council of the AFL-CIO, the Alabama Prison Project, the National Association of Letter Carriers, the Postal Workers Union the Montgomery East Christian Church and is the meeting place for numerous other organizations each of which pays rent.

I have seen the affidavit of Jeffrey Saunders, dated August 21st, 1984, and I made no statements attributed to me.

Sworn to and subscribed before me this the 12 day of October, 1984.

Tom Jones
Richard Roberts



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Mr. Michael S. Berman, Treasurer
Mondale for President
Committee, Inc.
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007
Attn: David Ifshin
Carolyn U. Oliphant

Re: MUR 1778

Dear Mr. Berman:

On September 14, 1984, the Commission notified the Mondale for President Committee and you, as treasurer, 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 your committee, 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

Mr. Robert Kurnick
Sherman, Dunn, Cohen, Leifer
& Counts, P.C.
1125 15th Street, N.W.
Suite 801
Washington, D.C. 20005

RE: MUR 1778
International Brotherhood of
Electrical Workers Local 443

Dear Mr. Kurnick:

On September 14, 1984, the Commission notified your client 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 you, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become 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

Ralph Martin (Bud) Hettinga, Jr.
645 Compress Road
Las Cruces, New Mexico 88001

Re: MUR 1778

Dear Mr. Hettinga:

The Federal Election Commission has reviewed the allegations of your complaint dated September 6, 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 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

14



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

William A. Wilson
Vice President
The National Right to
Work Committee
8001 Braddock Road
Suite 500
Springfield, Virginia 22160

Re: MUR 1778

Dear Mr. Wilson:

The Federal Election Commission has reviewed the allegations of your complaint dated September 6, 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 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

RECEIVED AT THE FEC
GCC#5123
84 OCT 12 P 4: 40

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. YELIG
RICHARD M. RESNICK
ROBERT D. KURNICK

AREA CODE 202
785-9300

VICTORIA L. BOR
D. WILLIAM HEINE, JR.
MARY E. VOGEL

October 12, 1984

MEMBER OF CALIFORNIA BAR

Charles N. Steele
General Counsel
Federal Elections Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: FEC MUR 1778

Dear Mr. Steele:

This letter constitutes the response of International Brotherhood of Electrical Workers Local Union 443 (IBEW Local 443) to your letter of September 14, 1984, stating that the Commission has received a complaint alleging that IBEW Local 443 may have violated the Federal Election Campaign Act of 1971, as amended (the Act).

The complaint, which the Commission has numbered FEC MUR 1778, alleges that IBEW Local 443 violated 2 U.S.C. § 441b by conducting a "get-out-the-vote drive" that was directed in part at members of the general public. The complaint is based solely upon the statement of an investigator who was paid by the National Right to Work Committee (NRWC) to infiltrate the Mondale for President Committee. This individual claims that on March 13, 1984 he delivered several tee-shirts to an IBEW office and spoke to Tom Jones, an IBEW member. Jones allegedly told the Right to Work Committee's paid infiltrator that the IBEW was operating a phone bank and was calling "everyone 'who had ever thought of having any connection with organized labor.'"

IBEW Local 443 submits that no violation of the Act occurred and that no action should be taken in connection with this matter. IBEW Local 443 did not operate a phone bank. A phone bank was operated by the AFL-CIO Central Labor Council, which has an office in the same building as does IBEW Local 443, but the Central Labor Council restricted its calls to members of

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OFFICE OF THE
GENERAL COUNSEL

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Charles H. Steele
Page 2
October 12, 1984

AFL-CIO affiliates. Moreover Tom Jones never made the statement attributed to him and, even if the Commission believes the statement was made, that statement does not establish a violation of the Act.

The office of IBEW Local 443 is located at 3381 Atlanta Highway in Montgomery, Alabama. Several unions and other organizations, including Central Labor Council of the AFL-CIO, the Alabama Prison Project, the National Association of Letter Carriers, the Postal Workers Union and the Montgomery East Christian Church, have their offices in the same building.

As stated in the attached affidavits, IBEW Local 443 did not operate a phone bank in March 1984 or at any other time. Accordingly, no basis exists under any circumstances for concluding that IBEW Local 443 violated the Act. Clearly IBEW Local 443, which did not operate a phone bank, did not conduct a "get-out-the-vote-drive" directed at the general public.

A phone bank was operated at 3381 Atlanta Highway in Montgomery, but that phone bank was operated by the Central Labor Council of the AFL-CIO. The attached affidavit of Brenda Gregory, who with another individual, was responsible for operating that phone bank, shows that the Central Labor followed a procedure designed to limit calls to active members of AFL-CIO affiliates. She obtained a list of all current members and only those members were called. Consequently the Central Labor Council of the AFL-CIO communicated only with its restricted class and not with members of the general public. See 11 C.F.R. § 114.3(c)(3).

Thus the allegations in the NRWC's complaint, that IBEW Local 443 operated a phone bank and that members of the general public were called, are both incorrect. The NRWC's complaint in this MUR and the affidavit upon which the complaint is based demonstrate a cavalier disregard for the relevant facts. The National Right to Work Committee's paid investigator never bothered to find out what organization was operating the phone bank or how it was being operated. It is not surprising therefore that the information contained in the investigator's affidavit is completely incorrect. The affidavit purports to quote Tom Jones to whom the NRWC's investigator allegedly

35040510734

Charles H. Steele
Page 3
October 12, 1984

delivered Mondale tee-shirts. Yet as Tom Jones states in his attached affidavit the tee-shirts were delivered by a woman and not by the NRWC's investigator. Moreover, Jones had no knowledge about the operation of phone banks and never discussed the operation of phone banks with anyone. Jones specifically denies making the statement attributed to him by the NRWC's investigator.

We submit that the Commission should not credit the affidavit of the Right to Work Committee's paid spy. First, he obviously secured his position at the Mondale for President Committee by lying about who he was and why he was there. He apparently has little regard for the truth and will lie if doing so is financially advantageous. In this instance the Right to Work Committee is paying him to claim to have observed a violation of the Act. Second, the "facts" as recited in his affidavit are obviously incorrect. If the Right to Work Committee's infiltrator cannot accurately determine what organization is conducting a phone bank, he certainly cannot be expected to report accurately on what an individual said to him on a particular date. Thus the complaint in this MUR is supported solely by the statement of an individual who has incorrectly reported the facts and has little regard for the truth.

Finally, it should be noted that the statement purportedly made by Tom Jones does not establish a violation of the Act. That statement is at best ambiguous and does not demonstrate that IBEW Local 443 or any other organization called members of the general public.

Thus in this MUR no reason exists to believe that IBEW Local 443 or any other entity committed a violation of the Act. IBEW Local 443 did not conduct a phone bank. The organization that did conduct the phone bank carefully restricted calls to its

35040510735

SHERMAN, DUNN, COHEN, LEIFER & COUNTS, P.C.

Charles H. Steele
Page 4
October 12, 1984

restricted class. The affidavit upon which the complaint is based is not worthy of being credited. And, even if the Commission believes the statements in that affidavit, they do not establish a violation of the Act. Accordingly no action should be taken against IBEW Local 443 in connection with this matter.

Sincerely,

SHERMAN, DUNN, COHEN,
LEIFER & COUNTS, P.C.

By: *Robert D. Kurnick*
Robert D. Kurnick

RDK:llp
Enclosures

cc: Rick Diegel
Ed Barnes

35040510736

STATE OF ALABAMA

MONTGOMERY COUNTY

AFFIDAVIT

Comes, Tom Jones, a resident of Autauga County, Alabama, and a member of International Brotherhood of Electrical Workers Local 443, and first being duly sworn states as follows:

On March 13, 1984, I was sitting in at the Union Hall, answering the telephones, while Ed Barnes, the Union Business Manager, was out of the office. On that day a young woman brought approximately fifty (50) Mondale T-Shirts by the office. I had no idea of the reason the T-Shirts were delivered to the office or what was to be done with them.

I had no conversation with anyone in regards to telephone banks and I had no information as to whether one was conducted at the Union Hall. Further, I have no information as to any phone bank connected with the International Brotherhood of Electrical Workers Local 443 and I have never discussed the International Brotherhood of Electrical Workers conducting a phone bank for the Mondale Campaign with anyone.

Further, March 13, 1984, election day was the first day I had ever sat in the Union Hall to answer the telephone for Ed. Barnes and there was no phone bank conducted from the Union Hall on that date. To my knowledge the Union Hall also contains offices for the Central Labor Council of the AFL-CIO, the Alabama Prison Project, the National Association of Letter Carriers, the Postal Workers Union the Montgomery East Christian Church and is the meeting place for numerous other organizations each of which pays rent.

I have seen the affidavit of Jeffrey Saunders, dated August 21st, 1984, and I made no statements attributed to me.

Sworn to and subscribed before me this 13 day of October, 1984.

Tom Jones
Richard Roberts

STATE OF ALABAMA §

MONTGOMERY COUNTY §

AFFADAVIT

COMES Brenda Gregory, a resident of Montgomery County, Alabama, and a member of the Communication Workers of America, Local #10908, and first being duly sworn, states as follows:

On or before March 13, 1984, the Central Labor Council of the AFL-CIO operated a telephone bank for the purposes of encouraging union members to participate in the March 13, 1984 primary election. Becky Hilyer and myself were responsible for the operation of the telephone bank. Prior to operating the telephone bank we obtained a list of all current union members and these persons were called from the Central Labor Council office and the offices of appropriate labor unions. To our knowledge only active union members were called from this telephone bank. The local unions did not furnish long distance phone lines, as COPE picked up the cost of WATTS lines, which were used to call union members.

I have observed the affadavit of Jeffrey Saunders, dated August 21st, 1984, and I can state unequivocally that this affadavit is incorrect.

GIVEN THIS the 11 day of October, 1984.

x Brenda S. Gregory
Brenda Gregory

SWORN TO and SUBSCRIBED TO before me, the undersigned Notary Public, this the 11 day of October, 1984.

[Signature]
Notary Public

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**SHERMAN, DUNN, COHEN
LEIFER & COUNTS, P.C.**
1125 15TH STREET, N.W., SUITE 801
WASHINGTON, D.C. 20005

To

Charles N. Steele
General Counsel
Federal Elections Commission
1325 K Street, N.W.
Fifth Floor
Washington, D.C. 20463

BY HAND



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 9, 1984

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

RE: MUR 1778
International Brotherhood of
Electrical Workers Local 443

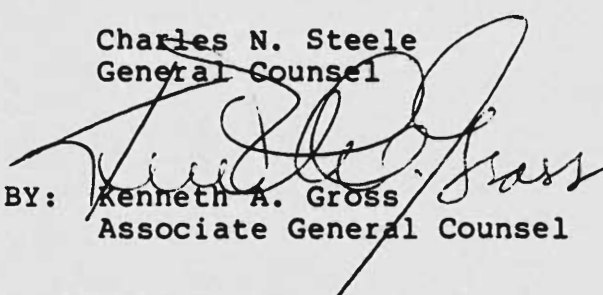
Dear Mr. Kurnick:

Your October 2, 1984 request to provide the International Brotherhood of Electrical Workers Local 443 an extension of time to respond to the allegations contained in MUR 1780 has been received and approved. Please submit your response by October 12, 1984.

If you have any questions, please contact Matt Gerson, the staff person assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

BY: 
Associate General Counsel

35040510740

GCC# 4455

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. YELIG
RICHARD M. RESNICK
ROBERT D. KURNICK

VICTORIA L. BOR
D. WILLIAM HEINE, JR.
MARY E. VOGEL

AREA CODE 202
785-9300

October 2, 1984

*MEMBER OF CALIFORNIA BAR

Mr. Matt Gerson
Federal Elections Commission
Seventh Floor
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1778

Dear Mr. Gerson:

This office represents International Brotherhood of Electrical Workers Local 443, a respondent in MUR 1778. I am enclosing a Statement of Designation of Counsel from IBEW Local 443.

I am writing on behalf of IBEW Local 443 to request an extension of time until October 12, 1984 to respond to your letter of September 14, 1984 notifying the Local that the FEC had received a complaint alleging violations of the Federal Election Campaign Act. The respondent represented by this office is a small local union in Montgomery, Alabama. This office was informed of the existence of this MUR only a short time ago and is still in the process of investigating the relevant facts and acquiring the materials needed to respond. Consequently IBEW Local 443 will be unable to respond by the current due date, October 2, 1984. We therefore request a ten-day extension until October 12, 1984 to file our response.

Sincerely,

SHERMAN, DUNN, COHEN,
LEIFER & COUNTS, P.C.

Robert D. Kurnick

By:

Robert D. Kurnick

RDK:llp
Enclosure

35040510741

GCC #4952

October 2, 1984

Matthew Gerson, Esq.
Office of the General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

14 OCT 2 1984
FBI

Dear Mr. Gerson:

Pursuant to our conversation, I have enclosed replacement pages for MUR 1777 and MUR 1778. I appreciate your assistance in this matter.

Very truly yours,

Francine M. Hayward

Francine M. Hayward
Assistant Counsel
Mondale for President

encl.

35040510742

GCC# 4955

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

October 2, 1984

Mr. Matt Gerson
Federal Elections Commission
Seventh Floor
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1778

Dear Mr. Gerson:

This office represents International Brotherhood of Electrical Workers Local 443, a respondent in MUR 1778. I am enclosing a Statement of Designation of Counsel from IBEW Local 443.

I am writing on behalf of IBEW Local 443 to request an extension of time until October 12, 1984 to respond to your letter of September 14, 1984 notifying the Local that the FEC had received a complaint alleging violations of the Federal Election Campaign Act. The respondent represented by this office is a small local union in Montgomery, Alabama. This office was informed of the existence of this MUR only a short time ago and is still in the process of investigating the relevant facts and acquiring the materials needed to respond. Consequently IBEW Local 443 will be unable to respond by the current due date, October 2, 1984. We therefore request a ten-day extension until October 12, 1984 to file our response.

Sincerely,

SHERMAN, DUNN, COHEN,
LEIFER & COUNTS, P.C.

Robert D. Kurnick

By:

Robert D. Kurnick

RDK:llp
Enclosure

35040510743

4 OCT 2
P4:49

LAW OFFICES

SHERMAN, DUNN, COHEN, LEIFER & COUNTS, P.C.

1125 FIFTEENTH STREET, N.W.

SUITE 801

WASHINGTON, D.C. 20005

BY HAND

Mr. Matt Gerson
Federal Elections Commission
Seventh Floor
1325 K Street, N.W.
Washington, D.C. 20463

201 676 51

October 1, 1984

Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street NW
Washington, D.C. 20463

Re: MUR 1778

Dear Mr. Steele:

35040510745
This letter constitutes the response of the Mondale for President Committee (MPC) to the complaint filed in MUR 1778 on September 6, 1984 by the National Right to Work Committee (NRWC) and Ralph Martin (Bud) Hettinga, Jr. The complaint is one of a series which have been filed by NRWC as part of its deliberate and continuing campaign of using paid spies to infiltrate MPC, and organizations of citizens working on behalf of MPC.

Complainants allege, based on an affidavit from their paid infiltrator, that the named respondent, International Brotherhood of Electrical Workers, Local 443 (IBEW), violated the Federal Election Campaign Act by certain activities undertaken in support of Walter F. Mondale. On September 14, 1984, the Federal Election Commission notified MPC that the complaint in MUR 1778 alleges that MPC may have violated the Federal Election Campaign Act.

35040510746
The complaint contains one count, that the IBEW conducted a telephone get-out-the-vote campaign during the presidential primary race of 1984 which was directed in part, at members of the general public in violation of 2 U.S.C. Section 441b.

The sole evidentiary support for this allegation is an affidavit prepared by a person employed by NRWC as part of its ongoing dirty tricks campaign. Specifically, the affiant, allegedly an investigator with Associated Investigators, Inc., testified that "[w]hile investigating possible union violations of the federal election laws, [h]e performed volunteer work for Mondale's presidential campaign, located...[in]...Montgomery, Alabama." While working at the phone bank he further testified that he was told by an individual named Randy Sutton that the AFL-CIO was conducting a telephone bank out of the IBEW building and that initially the union only called its own members but that it "may" have started calling "civilians" because of the limited number of union members in Montgomery. He also testified that he had a conversation with Mr. Tom Jones at one of the union's offices in which Jones stated that their phone bank consisted of four to six people calling everyone "who had ever thought of having any connection with organized labor," and that calls had been made beyond the immediate Montgomery area.

Mr. Saunders is just another in the network of spies organized and paid by NRWC to discredit the political campaigns of candidates it opposes. It was the hope of this organization that such efforts would uncover violations of the Federal Election Act. Unable to meet this goal, the NRWC settled

for filing numerous frivolous complaints against MPC in an effort to discredit the Committee, and to drain MPC's time and resources.

As MPC has stated to the Commission, the conduct of NRWC and its agents is unlawful, morally reprehensible and contrary to the public policies which the Commission is mandated to protect. Moreover, MPC maintains that this conduct so pervades the complaint that no resolution by the Commission other than dismissal is appropriate. Accordingly, MPC urges the Commission to dismiss the complaint forthwith or, alternatively, to strike the affidavit which provides the factual basis for the complaint. See The Motion to Strike Filed by MPC on June 25, 1984 With Respect to MUR 1702, 1703, and 1704 (attached at Appendix A).

MPC further submits that the complaint should be dismissed by the Commission because MPC is not a proper respondent, the complaint lacks credible factual support, and the complaint alleges no facts which, even if considered by the Commission and taken as true, would constitute a violation of the Act by MPC.

I. MPC IS NOT A PROPER RESPONDENT TO THIS MUR

The Commission's compliance procedures provide in part that a complaint identify as a respondent each person or entity who is alleged to have committed a violation of the Act. 11 C.F.R. Section 111.4(d). The Commission's procedures further require that it take no action with respect to complaints which do not comply with 11 C.F.R. Section 111.4. 11 C.F.R. Section 111.5 (b). It is axiomatic that those persons who would invoke the

jurisdiction of an administrative agency must meet the agency's procedural requirements. Thus, the NRWC has no right to proceed against MPC without naming it and identifying specifically MPC's conduct of which it complains. It is further evident that an administrative agency must comply with its own regulations. MPC therefore submits that the Commission should not name MPC as a respondent or proceed against MPC on the basis of this complaint.

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The instant complaint does not name MPC as a respondent, nor does it allege that MPC engaged in actions which violate the Act. Indeed, the complaint does not allege that it engaged in any activity at all relevant to the complaint. Rather, MPC has simply been provided a copy of the complaint and left to speculate as to what conduct might be alleged or what theory might be constructed to assert a violation against it.

The Commission's requirement that complaints identify respondents is not a mere technicality. Due process requires that respondents be informed with specificity of the nature of the charges against them and be able to respond meaningfully to those charges to show that no action should be taken. MPC submits that unless and until NRWC identifies MPC as a respondent or directly alleges specific conduct by MPC which would be violative of the Act, no action should be taken against it.

II. THE COMPLAINT ON ITS FACE FAILS TO STATE A CAUSE OF ACTION

The complaint alleges that the IBEW conducted a telephone get-out-the-vote campaign which was directed at members of the general public in violation of 2 U.S.C. Section 441b. However, there is no evidence that, in fact, any person outside union

membership was contacted. Moreover, on the face of the complaint, the alleged activity was consistent with activity that would be perfectly permissible under the Act. See, e.g., 11 C.F.R. Section 114.4 (c)(1)(i).

III. THE SAUNDERS AFFIDAVIT PROVIDES INSUFFICIENT CREDIBLE SUPPORT TO BASE A VALID COMPLAINT

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The affidavit from NRWC's paid spy provides the sole factual support for the complaint. The credibility of this affidavit is open to serious question. There is no dispute that the affiant routinely and extensively lied in the course of his mission. Specifically, Mr. Saunders made false representations that he wanted to volunteer to support the election of Mr. Mondale and he gained access to IBEW offices and to MPC offices under false pretenses. Indeed, in order to justify his fees and continued employment, there was an incentive to manufacture evidence. At a minimum, his statements should be subjected to particularly close scrutiny. His tactics certainly raise fundamental questions as to his credibility as a witness since his own testimony underscores his lack of respect for the truth.

Even if the affiant is determined to be a credible witness, the facts alleged in the affidavit do not support a finding of reason to believe because the testimony contained therein consists solely of the unsubstantiated statements of persons whose relationship to MPC and IBEW, if any, is unknown.

Moreover, the affidavit alleges no facts that are prohibited under the Act.

Indeed, the only mention of MPC is the assertion that the NRWC spy was asked to deliver Mondale T-shirts to the IBEW. The affiant does not provide the name of any individual who allegedly gave him the T-shirts nor does he explain the basis for his conclusion that the IBEW was going to sell them. Moreover, there is no evidence that any T-shirts were in fact sold. This supposed episode is not mentioned in the complaint. Even assuming the alleged episode or some version of it actually occurred, there is no resulting violation of the Act. */

*/ During the primaries, T-shirts were distributed by MPC through its state offices. While it is conceivable that some of these shirts ended up in Alabama, they generally were distributed to supporters without charge. Even if the T-shirts in question were MPC T-shirts, and were sold by MPC to union supporters, there would be no violation of the Act since such items can legally be sold as a fundraising device during the primary. 11 C.F.R. Section 100.7(a)(2).

V. Conclusion

For the reasons set forth above and in MPC's June 25, 1984, Motion to Strike, the Commission should find no reason to believe that MPC has violated the Act and should take no further action in this matter.

Sincerely,

David M. Ifshin

David M. Ifshin
General Counsel

By end

Carolyn U. Oliphant

Carolyn U. Oliphant
Deputy General Counsel

MONDALE-FERRARO COMMITTEE NW
2201 WISCONSIN AVENUE
WASHINGTON, D.C. 20007

3 5 0 4 0 5 1 0 7 5 2

840012 A.

CHARLES N. STEELE
GENERAL COUNSEL
FEDERAL ELECTION COMMISSION
1325 K STREET NW
WASHINGTON, D.C. 20463

RETURN RECEIPT
REQUESTED

CERTIFIED

P 698 691 914

MAIL

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1778

NAME OF COUNSEL: Robert Kurnick

ADDRESS: Sherman, Dunn, Cohen, Leifer, Counts
1125 15th St. N.W.; Suite 801
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.

10/1/84
Date

E. J. Baines
Signature

RESPONDENT'S NAME: I. B. E. W. Local 443

ADDRESS: 3381 Atlanta Highway
Montgomery, AL 36109

HOME PHONE: 205/283-2393

BUSINESS PHONE: 205/272-8830

35040510753



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 14, 1984

Ralph Martin (Bud) Hettinga, Jr.
645 Compress Road
Las Cruces, New Mexico 88001

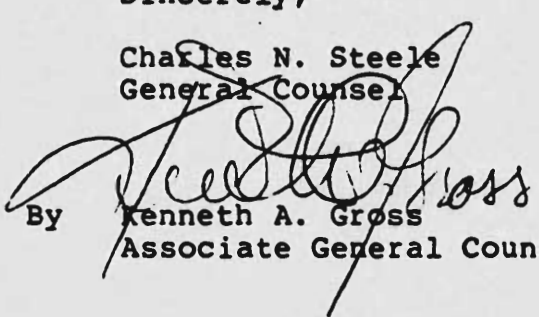
Dear Mr. Hettinga:

This letter is to acknowledge receipt of your complaint which we received on September 6, 1984, against the International Brotherhood of Electrical Workers, Local 443; Michael S. Berman; and Mondale for President Committee, Inc., which alleges violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. The respondent 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 Barbara A. Johnson at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

By  Kenneth A. Gross
Associate General Counsel

Enclosure

35040510754



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 14, 1984

William A. Wilson
Vice President
The National Right to
Work Committee
8001 Braddock Road, Suite 500
Springfield, Virginia 22160

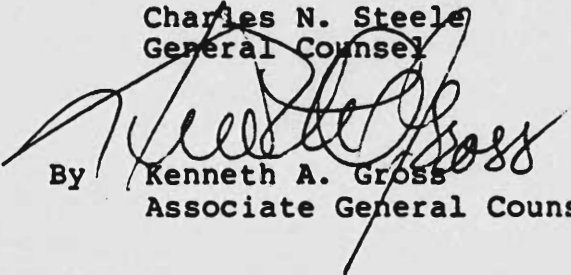
Dear Mr. Wilson:

This letter is to acknowledge receipt of your complaint which we received on September 6, 1984, against the International Brotherhood of Electrical Workers, Local 443; Michael S. Berman; and Mondale for President Committee, Inc., which alleges violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. The respondent 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 Barbara A. Johnson at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

By 
Kenneth A. Gross
Associate General Counsel

Enclosure

35040510755



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 14, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Michael S. Berman
Treasurer
Mondale for President Committee, Inc.
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007

Re: MUR 1778

Dear Mr. Berman:

This letter is to notify you that on September 6, 1984 the Federal Election Commission received a complaint which alleges that the committee 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 1778. 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.

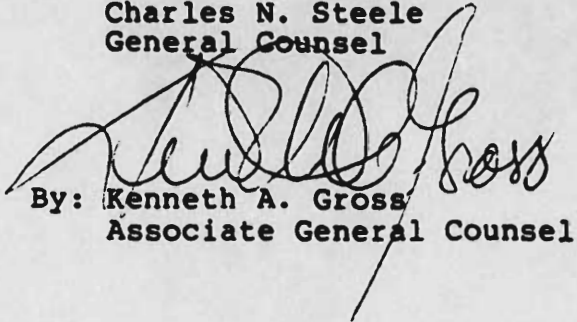
If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

35040510756

If you have any questions, please contact Matthew Gerson, the staff person assigned to this matter at (202) 523-4143. 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

35040510757



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 14, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Malcolm Graves
President
The International
Brotherhood of
Electrical Workers
Local 443
3381 Atlanta Highway
Montgomery, Alabama 36109

Re: MUR 1778

Dear Mr. Graves:

This letter is to notify you that on September 6, 1984 the Federal Election Commission received a complaint which alleges that International Brotherhood of Electrical Workers Local 443, 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 1778. 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 International Brotherhood of Electrical Workers Local 443, 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.

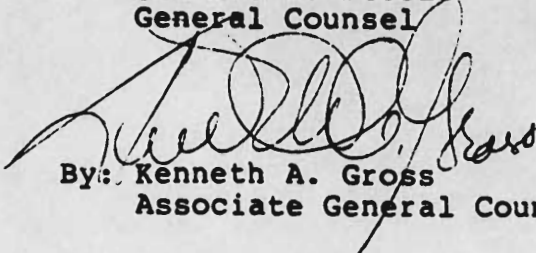
If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

35040510758

If you have any questions, please contact Matthew Gerson, the staff person assigned to this matter at (202) 523-4143. 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

35040510759

RECEIVED AT THE REC
GCC #4585
HAND DELIVERED
SEP 6 1984

BEFORE THE
FEDERAL ELECTION COMMISSION

THE NATIONAL RIGHT TO WORK COMMITTEE

and

RALPH MARTIN (BUD) HETTINGA, JR.,

Complainants,

v.

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL 443

Respondent.

MUR

1778

RECEIVED
OFFICE OF THE
GENERAL COUNSEL

84 SEP 6 3:53

COMPLAINT

Complainants, The National Right to Work Committee (the "Committee") and Ralph Martin (Bud) Hettinga, Jr., request an investigation of the matters alleged herein pursuant to 2 U.S.C. § 437g. The Committee's address is 8001 Braddock Road, Suite 500, Springfield, Virginia 22160, and its phone number is 703-321-9820. Mr. Hettinga's address is 645 Compress Road, Las Cruces, New Mexico 88001, and his phone number is 505-524-3551.

Respondent is the International Brotherhood of Electrical Workers, Local 443 (IBEW), 3381 Atlanta Highway, Montgomery, Alabama 36109.

This Complaint, filed on information and belief, is based on the attached affidavit of a private investigator.

35040510760

The affidavit reflects that the IBEW conducted a telephone get-out-the-vote campaign during the presidential primary race this year, and that the get-out-the-vote drive was directed, in part, at members of the general public, rather than exclusively at IBEW members, in violation of 2 U.S.C. § 441b.

WHEREFORE, Complainants request that the FEC investigate and remedy this matter.

THE NATIONAL RIGHT TO WORK COMMITTEE

By:

William A. Wilson
William A. Wilson, Vice President

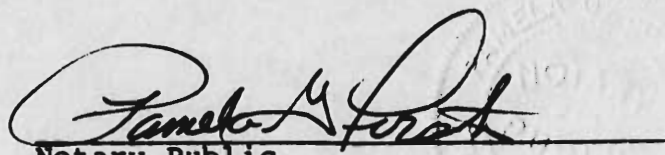
The foregoing Complaint was subscribed and sworn to before me this 4th day of ^{(10) September} ~~August~~, 1984, by William A. Wilson as Vice President of The National Right to Work Committee.

Lorraine A. Tolson
Notary Public

My Commission expires on November 30, 1987


Ralph Martin (Bud) Hettinga, Jr.

The foregoing Complaint was subscribed and sworn to before
me this 23rd day of August, 1984, by Ralph Martin (Bud) Hettinga,
Jr.


Notary Public

My Commission expires on 11/5/87

35040510762

AFFIDAVIT

STATE OF VIRGINIA)
) SS:
COUNTY OF FAIRFAX)

I, Jeffrey Saunders, being first duly sworn, depose and state:

1. I am an investigator with the firm of Associated Investigators, Inc., 1025 Vermont Avenue, N.W., Washington, D.C. 20005.

2. While investigating possible union violations of the federal election laws, I performed volunteer telephone work for Mondale's presidential campaign, located at 492 South Court Street, Montgomery, Alabama 36104, Telephone No. 205-265-4085. The telephone work was conducted at the Alabama Education Association headquarters, 422 Dexter Street, Montgomery, Alabama 36104, Telephone No. 205-834-9790.

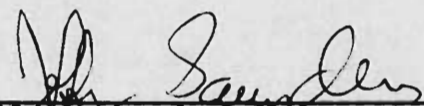
3. While I was working at the phone bank on Thursday, March 8, 1984, an individual named Richard Carter told to me that he believed the AFL-CIO was conducting a telephone bank out of a building on Atlanta Highway. He did not know the address.

4. On Sunday, March 11, 1984, an individual named Randy Sutton stated that the AFL-CIO was conducting a telephone bank out of the International Brotherhood of Electrical Workers' building, located at 3381 Atlanta Highway. He also said that the union was calling union members initially, but may have started calling "civilians" as there were not many union members in Montgomery.

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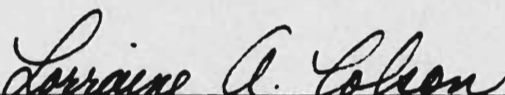
5. On Tuesday, March 13, 1984, at 11:45 a.m., I was asked by the Mondale Montgomery headquarters to take fifty-two (52) Mondale tee-shirts to Tom Jones at the IBEW. The IBEW was going to sell them. Tom Jones was the only person at the union offices when I arrived. In the conversation that ensued, Jones stated that they had had a successful telephone bank from what he had observed. They had four to six people calling everyone "who had ever thought of having any connection with organized labor." He also stated that they had been calling beyond the immediate Montgomery area.

Further affiant sayeth not.



Jeffrey Saunders

Subscribed and sworn to before me, a notary public, this 21st
day of August, 1984.



Notary Public

My Commission expires: November 30, 1987

35040510764

35040510765



FEDERAL ELECTION COMMISSION

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

THIS IS THE BEGINNING OF MUR # 1778

Date Filmed 1/10/85 Camera No. --- 2

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