FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4351

DATE FILMED 11-18-96 CAMERA NO. 4

CAMERAMAN JMH

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

MUR 4351

MAY 2 11 52 AM '96

SENSITIVE

April 8, 1996

To the Federal Election Commission

Thank you for your 800# and the information and help I have recived

My name is Roger Lee Hartline
(The Complainant) P.O. Box 445
37297 Monroe St.
Sardis, Ohio 43946
phone # 1-614-483-1679

I work for MCELROY Coal Co.
MCELROY-Coal Mine
Consoladation Coal Group
Moundsville Operations
Moundsville W.V. 26041

(Respondent)
Carlo Tarley for The United Mine Workers America
Treasurer 900 15th St. N.W.
Washington D.C. 20005
phone # 1-202-842-7200

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RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

APR 25 10 34 AM '96

I Roger Lee Hartline along with
other members of United Mine Workers
of America Local Union 1638
would like the Federal Election Commission
to investigate The United Mine
Workers of America's haveing
MCELROY Coal Company taking
$10.00 from our Pay Checks
3/10/96 Because we feel that
Election Laws have been Broken.
COMPAC is our unions
(political action committee)
1 No written Authorization was Taken
2 A Reverse Checkoff was used
3 used as Fees and Dues
4 use of Force and Threats
Our local told us to call the
International in Washington D.C.
But here is the problym it
would cost more than $10.00 to
try to get a answer from our
international and sence you can't
get an answer from our local
or our district I think you
Know what kind of answer we
would get form Washington D.C.
Enclosed is some work that I
did that is not offical but
I was looking for some answers
and none came except what
I recived from the Federal Election
Commission.

Roger Lee Hartline

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So it is with this Petition we the members of Local Union 1638 would like the Federal Election Comission to investigate

Roger Lee Hartline
PO Box 445
Sardis Ohio 43946

Roger Lee Hartline
4-8-96

SIGNED & SWORN to BEFORE ME

Susan M [illegible] 4/8/96

SUSAN [illegible]
NOTARY PUBLIC, STATE OF OHIO
Commission Expires May 12, 1999

John L Adams RD#2 Box 99 Proctor WV 26055

Dennis R Richmond RT 1 Box 94 Glen easton

Todd Bates
1307 N. St. Rt. 2
NEW MARTINSVILLE, WV, 26155

Duyey a Bates
P.O. Box 218
Pine Grove WVa 26419

Jimmie L Manning 2010 Center St Moundsville

Everett Wood RD1# Box [illegible] GLENEASTON [illegible]

Bob Dewalt 10519 Special Rd. Uhrichsville, Ohio

Julio Tans 20 OAK Ave -

Don Arnett Big Run, WV.

Charles Flaharty Pine Grove WVa.

Tom Miller 68 CINDY DR. NEW MARTINSVILLE

John D Curran 1418 10th St. Moundsville. W.VA.

9 6 0 4 3 7 6 4 9 0 2

Michael Ray Bittiger	NEW MARTINSVILLE
[illegible] M Robinson	Moundsville W.Va
Robert J Hank	Proctor W.Va.
Edward McCabe	CAMERON W.V.
[illegible]	
[illegible] Denna	New Martinsville
Roger [illegible]	HC 60 Box 260 Pine Grove 26419
[illegible]	P.O. Box 351 Reader W.Va 26167
Larry [illegible]	RD 3 Box 70 Moundsville W.Va
Michael Whaley	New MART. WVA.
Thomas L. [illegible]	Jacksonburg W.Va 26377
Frank [illegible]	CADIZ. OHIO 43709
Joe Church	MOUNDSVILLE WVA 26041
Gary Wingrove	Glen Dale, W.Va. 26038
Charles V [illegible]	450 NEW M'AUSVILLE WVA
John E Boggs	305 Poplar ave, Moundsville
Frances L [illegible]	HC 60 Box 257 Pine Grove WVa 26419
Greg E [illegible]	P.O. Box 473 Reader W.V. 26167
Lance E McCabe	10 Maple Ave MOUNDSVILLE WV 26041
Rodney Ott	RD#3 Box 306A Moundsville WV 26041
D Fulks	RT 2 Box 355 Sistersville WV
James Barnal	RD#1 Dillonvale Ohio
Larry Anderson	RD# 2 Proctor WV
Gerald L [illegible]	RD 1 Bloomingdale
David Brown	RD 2 Moundsville WV
Robert M White	RD 2 Box 209 Proctor WV
Percy R [illegible]	58 13th St Wheeling WV
Jim Drake	R.D. 3 Cameron
[illegible] Cartwright	RD#3 Box 20 Cameron WV
Nathan Francis	RD#3 Box [illegible] Cameron W.V
Harry Osen	4[illegible] Water St. Wheeling WV
Dennis Crow	RD#1 Moundsville W Va

960437649 03

~~Robert~~

Robert D Oliver Proctor Rt 2 74B. W Va

Ronald J. Kendle P.O. Box 134 Richmond, Ohio 43944

Bernard Hubbard RD 2 Cottageland Rayland Oh 43943

Richard Hercules P.O. Box 104 McMechen W.V. 26040

Eugene Jones 69620 Sunnyside addn RT #1 St. Clairsville Ohio 43950

Kenneth E Mincer 919 Adena Dr. Glendale W.Va. 26038

Joe Williamson Fork Ridge Moundsville Box 121

Rich Moff 57400 Wenberg Hill Bellaire O 43906

Roy E Dawson P.O. Box 26 ALMA, WV 26320

David Anderson Proctor Route 2 Box 77A.

Larry Casto R1 Box 32A Proctor WVa 26055

Larry Higgins RR. 2 Box 478 New Martinsville

Richard Suter 65315 Garrett Hill St Clairsville Ohio 43950

Terry D Kratz P.O Box 171 Colerain O 43916

Ralph Dennis RT 1 Box 95 New Martinsville W.VA 26155

9604376 4904

Enclosed is some names from a sheet dated Feb 14 1986.

Also a copy of the letter telling us the Union. United Mine Workers was going to take out the $1000

My clock stub # 480305 Roger L Hamilton showing the $1000 taken out

page 165 of pink Constitation section 9 starts Compac language

page 106 of our wage Agreement

96043764905

480305

MCELROY COAL COMPANY
STATEMENT OF EARNINGS

PAY END: 03/10/96

J480305 NAME: ROGER L HARTLINE SSN: [redacted] LCC: 40 010 01 00

FED W4 STAT: M01 ST W4 STAT: M01 MAN: 90111

FOR THE ACCOUNT OF: MCELRCY COAL COMPANY

CURRENT	YR TO DATE	JOB	REGLR HOURS	1.5 HOURS	DBL HOURS	SHFT	RATE	GROSS AMOUNT

Federal Election Commission

UNION ASM : 10.00 1-800-424-9530

NET PAY:

This is the $10.00 taken from our checks as per the letter Dated Jan 29, 1996

96040764996

United Mine Workers of America

TELEPHONE
AREA CODE [illegible]

UNITED MINE WORKERS' BUILDING
900 FIFTEENTH STREET, N. W.
Washington, D.C.
20005

January 29, 1996

TO SIGNATORIES OF UNITED MINE WORKERS OF AMERICA CONTRACTS

The checkoff provision in your collective bargaining agreement with the United Mine Workers of America requires that all employers covered by the contract shall withhold initiation fees, membership dues and assessments from working members at the direction of the United Mine Workers of America.

The International Union, as required by its Constitution, has approved and authorized a $10.00 COMPAC assessment, payable one time only for the year 1996 for each UMWA working member employed at your company or subsidiary company at any time during 1996.

This assessment, unlike the assessment made for Local Union activities, is designed for use at the International level. Therefore, your procedures regarding the assessment are as follows:

> For information purposes, include the $10.00 per working member as a specific amount on the checkoff sheet under the column labeled "Assessment". Send the total amount, by separate check, directly to the International Headquarters, to the attention of Carlo Tarley, COMPAC Treasurer. **Do Not send this check to the District office and do not include any dues, initiation fees or other assessments with this check.**

Please deduct this assessment from the first pay period in March 1996 and forward your remittance to the United Mine Workers of America, 900 15th Street, N. W., Washington, D. C. 20005.

Also, please be advised that for purposes of the Selective Strike Assessment and COMPAC Assessment, Carlo Tarley is the new International Secretary-Treasurer.

UMWA members who are recalled after this date should have the assessment deducted from their first full pay period following recall. The procedure outlined above for transmitting these monies to the Union should then be followed for these checkoffs.

Your cooperation will be appreciated.

Very truly yours,

Cecil E. Roberts	Jerry D. Jones	Carlo Tarley
Cecil E. Roberts	Jerry D. Jones	Carlo Tarley
President	Vice President	Secretary-Treasurer

9604376497

The fundamental principle of representative government is that the people shall be governed by officers of their own choosing.

The democratic process also demands that citizens be permitted to vote secretly, in freedom from violence or threats.

One duty of citizens in a democracy is to take part in the work of the government by voting at the polls.

For the above reasons, we the members of local union 1638, umwa district 6, do not want the $10.00 compac assessment, withheld from our paychecks, as stated in the letter dated January 29, 1996.

See attached letter:

Dated this day : Feb, 14 1996

96043764908

[redacted]

Name Address

Roger Lee Harthin
PO Box 445
Sardis, OH. 43946.0445

Donnie R. Arnett
Big Run WV

Donnie Richmond
RT 1 Box 94 Glen easton W.Va.

Glen P. Courtright
RD#5 Box 26 Cameron W.V.

Terry Banal
RD 1# Dillonvale O.

Charles D. Butcher

Roger D. Fluharty
HC 60 Box 260
Pine Grove W.Va. 26419

Charles Fluharty
HCR 60 Box 255
Pine Grove W.Va. 26419

Leroy Anderson
RD# 2 Box 47 Proctor

Mike White Rd#2 Proctor

JAMIE LEGG
9 Sandy Ave Mdsv. WV.

Robert J Hunk

Name Address

Gerald R. Dunn
112 Dorn Ave
Bellaire Ohio 43906

David M. Taylor
106 WALLACE ST.
ST. CLAIRSVILLE OHIO 43950

Brad Wood
Rt 1, Box 127
Glen Easton W.Va. 26039

Wayne T Dight

Scott Collins
RD 3 Pine Knoll Glen Dale W.Va. WV

Tom Glover
RT 1 Box 40A
middlebourne W.V.

Kenneth E. Mina

David Hodgman

John L Adams
RD#2 Box 94 Proctor WV 26055

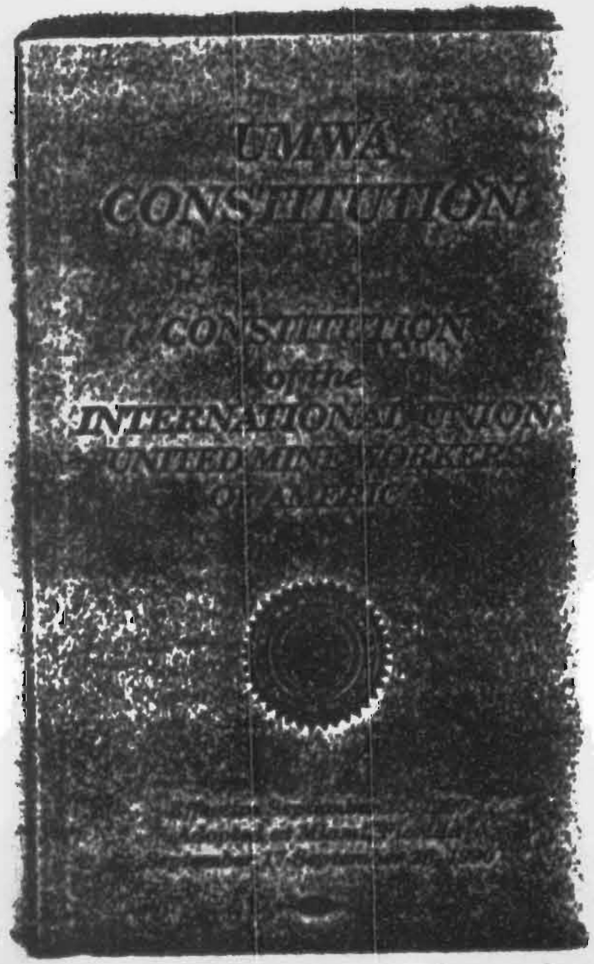
Wayne Goddard
HC 60 Box 237
New Martinsville W.V. 26155

Louie Straight
PO Box 351
Reader W.Va. 26167

Proctor WV. 26055

Michael Banto	Flushing, Ohio 43977
Lance E McCabe	Maple Ave Moundsville WV
D. Todd ~~Baker~~	NEW MARTINSVILLE, W.V. 26155
Francis Mazzy	P.O Box 74 Porters Falls
Danny ~~Burnett~~	P.O. Box 218 Pine Grove WVa
Dennis W Crow	RD #1 Box 397 Mdsv WVa
Kevin R. Goley	RD 2 Box 107A Proctor W.V. 26055
William Courtwright	RD #5 Box 550 Cameron WV 26033
Daniel A Whitely	RD 2# Box 155A Mounds. WVa
Harry Orr	4500 Water St. Wheeling WV 26003
Don Snyder	RD #7 Mds
Gerald L Crow	Bloomingdale O
John L Anderson	HCR 60 Box 17 New Martinsville
Danny A Hoyt	RD 2 # 47A ~~Proctor~~ 26055
Robert M. Dewalt	R1 #1 Uhrichsville, Ohio
James R. ~~Burnett~~	RD 2 Box 115-B, Proctor, WV.
Bill Hubbard	Benwood WVa
Terrell Talkington	228 Water St New Martinsville WV 26155
Ralph Dennis	

9604376491C



ments resulting from litigation against the United Mine Workers of America.

SECTION 7. The Local Financial Secretary shall fill out and forward to the International and District Secretary-Treasurers on or before the 25th of each month, a report of all members in good standing in the Local Union the previous month, together with all dues and assessments due the International and District Organizations for the previous month.

SECTION 8. Should it be proven that any Local Financial Secretary has failed to report monthly the full membership of their Local to the International and District Secretary-Treasurers and the full amount of dues on the same number of members that have paid dues to the Local Union, together with the full amount of assessment due the International and District Unions, the Local Union shall be suspended from all privileges and benefits until the deficiency is made good, and the officer responsible for such failure shall not be allowed to again hold office in the Union for a period of two years.

SECTION 9. (a) The International Union shall assess each working member $10.00 per year to carry out the objectives of COMPAC.

This assessment shall be payable in one installment. Moneys collected shall be segregated according to applicable state and federal law where necessary.

(b) Any member shall have the right to object to any of their dues money being expended for activities or causes primarily political in nature. Objections must be made to the International Secretary-Treasurer by certified mail and shall be effective only for the foll[illegible] twelve months. At the end of that perio[illegible] International Secretary-Treasurer shall remit to the objecting member that portion of their dues which has been spent for such purposes as determined by the International Executive Board.

SECTION 10. Any member becoming four months in arrears for dues or assessments shall, upon proper notice given, forfeit his/her membership and shall not be reinstated in good standing except upon such terms as the International Executive Board shall prescribe; provided, however, that a member who has signed a dues check-off authorization shall not be considered in arrears of dues because of the failure of the employer to check off and pay the dues until he/she has been notified by the Dis-

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National Bituminous Coal Wage Agreement of 1993

in which they are due unless the Employer and Employee agree that the latter may elect to be paid in lieu of taking them. Subject to such determination and said election, an Employee shall not be denied the opportunity to take these days at some time during the calendar year in which they are due.

Section (h) **Sick and Injured Employees**

An Employee forced to cease work due to injury or illness will be paid his FULL graduated vacation payment for the calendar year in which he ceases work and his FULL graduated vacation payment for the calendar year in which he returns to work.

Article XV—CHECKOFF

The membership dues, including initiation fees, and assessments of the United Mine Workers of America and its various subdivisions, credit union, voluntary COMPAC contributions and other voluntary deductions, and Union-sponsored group auto insurance, as authorized and approved by the International Union, United Mine Workers of America, shall be checked off the wages of the Employees by the Employers covered by this contract and shall be remitted by the Employers to the properly designated officers of the Union for distribution to its various branches. Such remittance shall be made within 30 days of the date such amount has been checked off. The Employer shall also submit an itemized statement showing the name of each Employee, his Social Security number, hours worked, and the amount checked off for dues, initiation fees, and assessments. Such itemized statement shall be made within 60 days of the date the checkoff has been made, and shall include a list of Employees from whom dues, initiation fees and assessments have not been collected.

In order that this section may become effective and operate within the limitations of the Labor-Management Relations Act of 1947, the Union hereby agrees to furnish, with all reasonable dispatch to the respective Employers, and the Employers agree to aid, assist and cooperate in obtaining, written authorizations from each Employee so employed. Upon the presentation to the Employers of such authorizations in such reasonable form as time and circumstances, looking to the continuous and uninterrupted production of coal, may allow, said Employers shall make deductions so authorized and deliver the same to the designated District officer of the Union or to such authorized representative as may be designated by the Union.

Article XVI—TRAINING

Section (a) **Priority**

The parties agree that the establishment of effective training programs for Employees is essential to safe and efficient production of coal. Toward that end,

FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 2, 1996

Roger Lee Hartline
P.O. Box 445
37297 Monroe Street
Sardis, OH 43946

RE: MUR 4351

Dear Mr. Hartline:

This letter acknowledges receipt on April 25, 1996, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). The respondent(s) will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 4351. Please refer to this number in all future communications. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosure
Procedures

FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 2, 1996

Carlo Tarley, Treasurer
UMWA - COMPAC
900 15th Street, NW
Washington, DC 20005

RE: MUR 4351

Dear Mr. Tarley:

The Federal Election Commission received a complaint which indicates that the United Mine Workers of America - Coal Miners Political Action Committee ("UMWA - COMPAC") and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4351. 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 UMWA - COMPAC and you, as treasurer, in this matter. 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. Your response, which should be addressed to the General Counsel's Office, 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.

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

If you have any questions, please contact a member of the Central Enforcement Docket at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 2, 1996

Cecil E. Roberts, President
United Coal Miners of America
900 Fifteenth Street, NW
Washington, DC 20005

RE: MUR 4351

Dear Mr. Roberts:

The Federal Election Commission received a complaint which indicates that the United Coal Miners of America may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4351. 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 United Coal Miners of America in this matter. 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. Your response, which should be addressed to the General Counsel's Office, 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.

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

If you have any questions, please contact a member of the Central Enforcement Docket at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

United Mine Workers of America

JUDITH RIVLIN
ASSOCIATE GENERAL COUNSEL

TELEPHONE (202) 842-7330
FAX (202) 842-7342

UNITED MINE WORKERS' BUILDING
900 FIFTEENTH STREET, N. W.
Washington, D.C.
20005

May 10, 1996

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
MAY 16 12 37 PM '96

Colleen T. Sealander, Esquire
Central Enforcement Docket
Office of the General Counsel
Federal Election Committee
Washington, D.C. 20463

Re: MUR 4351

Dear Ms. Sealander:

Your letters of May 2, 1996 to Cecil Roberts and Carlo Tarley concerning the above-referenced matter were referred to me. I have reviewed the materials and suggest the complaint does not indicate any violation of the Act.

The United Mine Workers of America (UMWA) COMPAC assessment is a once-a-year $10.00 payment that signatory employers deduct from the pay of those employees who have signed a dues and assessment check-off form; the employers then remit the monies to the UMWA.

As the complainant has demonstrated with his submission, the UMWA Constitution provides at Article 13, Section 9, that every member has the duty to pay this assessment once each year for the UMWA COMPAC.[1] The collective bargaining agreement between the UMWA and the complainant's employer (at Article XV) provides that the employer will collect and remit authorized dues and assessments (specifically referencing the COMPAC contribution) "within 30 days of the date such amount has been checked off." The employer further has a contractual duty to "aid, assist and cooperate in obtaining written authorization

[1]The UMWA Constitution is a contract between the International Union and its members. It is amended periodically by democratically elected delegates to International Conventions, the most recent of which was held in September, 1995. Article 13, Section 9 was not amended in any way in 1995.

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Ms. Colleen T. Sealander
May 10, 1996
Page Two

from each [e]mployee." (Through a secret ballot election, a majority of employees ratified this agreement in 1993.) Thus, it is clear that the UMWA COMPAC contribution is collected pursuant to Constitutional language, with the assistance of employers signatory to our collective bargaining agreements, upon the written authorization of UMWA members.

I trust this response will establish that neither the UMWA or the UMWA COMPAC has violated the Act.

Sincerely,

Judith Rivlin

Judith E. Rivlin

JR/fgm

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STATEMENT OF DESIGNATION OF COUNSEL

MUR 4351

NAME OF COUNSEL: Judith E. Rivlin

FIRM: United Mine Workers of America

ADDRESS: 900 Fifteenth Street, N.W.

Washington, DC 20005

TELEPHONE: (202) 842-7330

FAX: (202) 842-7342

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.

5/10/96 — Date

Carlo Tarley — Signature

RESPONDENT'S NAME: Carlo Tarley

ADDRESS: United Mine Workers of America

900 Fifteenth Street, N.W.

Washington, DC 20005

TELEPHONE: HOME ( )

BUSINESS (202) 842-7260

96043764920

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4351

NAME OF COUNSEL: Judith E. Rivlin

FIRM: United Mine Workers of America

ADDRESS: 900 Fifteenth Street, N.W.

Washington, DC 20005

TELEPHONE: (202) 842-7330

FAX: (202) 842-7342

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.

5/10/96
Date

Cecil E. Roberts
Signature

RESPONDENT'S NAME: Cecil E. Roberts

ADDRESS: United Mine Workers of America

900 Fifteenth Street, N.W.

Washington, DC 20005

TELEPHONE: HOME( )

BUSINESS(202) 842-7220

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RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

JUL 22 9 30 AM '96

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

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

MUR: 4351
DATE COMPLAINT FILED: April 25, 1996
DATE OF NOTIFICATION: May 2, 1996
DATE ACTIVATED: May 30, 1996

STAFF MEMBER: Mark Allen

COMPLAINANT: Roger Lee Hartline

RESPONDENTS: United Mine Workers of America
United Mine Workers of America - Coal Miners Political Action Committee and Carlo Tarley, as treasurer

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

RELEVANT REGULATION: 11 C.F.R. § 114.5(a)(1)

INTERNAL REPORTS CHECKED: Disclosure Reports
MUR 1025

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

The Office of the General Counsel received a complaint on April 25, 1996 from Roger Lee Hartline alleging that an annual $10.00 assessment by the United Coal Miners of America ("UMWA") for its separate segregated fund, the United Mine Workers of America Coal Miners Political Action Committee ("COMPAC"), constitutes a reverse check-off and is therefore in violation of the Federal Election Campaign Act of 1971, as amended ("the Act").

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II. FACTUAL AND LEGAL ANALYSIS

A. Law

The Federal Election Campaign Act of 1971, as amended, provides that it shall be unlawful for a separate segregated fund to make contributions or expenditures with dues, fees, or other moneys which are required as a condition of membership in a labor organization. 2 U.S.C. § 441b(b)(3)(A). The Commission's regulations further provide that even where such fees or monies are refundable upon request by the payor, they are still considered to constitute an impermissible condition of membership or employment. 11 C.F.R. § 114.5(a)(1). In FEC v. National Education Assn., the court found that requiring a member of a labor organization who did not wish to contribute to the organization's political committee to act to prevent the contribution (termed a "reverse check-off") rather than requiring the member's affirmative assent to contribute violates section 441b(b)(3)(A). 457 F. Supp. 1102, 1106 (D.D.C. 1978). The labor organization member must be asked beforehand whether he or she wants a contribution to be deducted along with his or her dues. Id. at 1109. See also Pipefitters Local 562 v. U.S., 407 U.S. 385, 439 (1972).

B. Complaint

The complaint alleges that an annual $10.00 assessment by the United Coal Miners of America for its separate segregated fund COMPAC constitutes a reverse check-off and is therefore in violation of the Act. Specifically, the complaint lists the allegations:

1. No written authorization was taken
2. A reverse checkoff was used
3. Used as fees and dues
4. Use of force and threats[1]

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[1] The complaint provides no specific information regarding this allegation. Section 441b(b)(3)(A) also prohibits separate segregated funds from making contributions or expenditures by utilizing money secured by physical force,

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The complaint includes several documents, including what appears to be a copy of a letter dated February 14, 1996 signed by complainant and 41 other union members stating that the signatories do not want the $10.00 COMPAC assessment withheld from their paychecks. The complaint also includes a copy of a document on UMWA stationery dated January 29, 1996 "[t]o signatories of United Mine Workers of America Contracts" regarding the $10.00 COMPAC assessment. The document states that the union, as required by its constitution, has approved and authorized the once-yearly assessment that "unlike the assessment made for Local Union activities, is designed for use at the International level." Employers are instructed to deduct the $10.00 from each member from the first pay period in March 1996 and send the total amount to the COMPAC treasurer. The document is signed by the UMWA president, vice president, and secretary-treasurer. Included in the complaint is a copy of complainant's statement of earnings for the March 1996 pay period in which the $10.00 assessment was deducted. The COMPAC deduction is titled "Union ASM" and is separate from deductions for union dues and the strike fund. Finally, the complaint includes a copy of the 1990 UMWA Constitution and the National Bituminous Coal Wage Agreement of 1993. The constitution at article 13, section 9 provides that

> (a) The International Union shall assess each working member $10.00 per year to carry out the objectives of COMPAC. This assessment shall be payable in one installment. Moneys collected shall be segregated according to applicable state and federal law where necessary.
>
> (b) Any member shall have the right to object to any of their dues money being expended for activities or causes primarily political in nature. Objections must be made to the

---

job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal. If the proposed investigation in this matter sheds any light on this allegation, this Office will make the appropriate recommendations to the Commission at that time.

> International Secretary-Treasurer by certified mail and shall be effective only for the following twelve months. At the end of that period the International Secretary-Treasurer shall remit to the objecting member that portion of their dues which has been spent for such purposes as determined by the International Executive Board.

Article XV of the Wage Agreement provides that

> The membership dues, including initiation fees, and assessments of the United Mine Workers of America and its various subdivisions, credit union, voluntary COMPAC contributions and other voluntary deductions, and Union-sponsored group auto insurance, as authorized and approved by the International Union, United Mine Workers of America, shall be checked off the wages of the Employees by the Employers covered by this contract and shall be remitted by the Employers to the properly designated officers of the Union for distribution to its various branches.
>
> . . .

Thus, it appears that the $10.00 COMPAC assessment was carried out pursuant to the UMWA Constitution and the Wage Agreement.

C. <u>Prior MUR</u>

The complaint in this matter is very similar to that in MUR 1025, which alleged that the UMWA had established a reverse check-off for assessing its members a $7.00 annual payment to COMPAC by requiring the payment as a condition of employment and failing to inform complainants of their right to refuse to contribute to COMPAC without any reprisal in violation of 2 U.S.C. § 441b(b)(3)(A) and (C), respectively. In that case, the Commission found reason to believe that the UMWA violated 2 U.S.C. § 441b(b)(3)(A) and this Office conducted a brief investigation in order to determine whether the COMPAC assessment funded contributions and expenditures in connection with federal elections, as would be prohibited by section 441b(b)(3)(A). The investigation showed that several segregated funds comprised the COMPAC. One fund, established under article 13, section 9(a) of the UMWA Constitution,[2]

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[2] The 1976 UMWA Constitution article 13, section 9(a) is nearly identical to that in the 1990 constitution aside from the assessment's increase from $7.00 to $10.00.

was subsidized by dues, fees, and assessments which a union member authorized by check-off to be deducted from his or her wages. This fund was characterized by the UMWA as "non-voluntary" and was not used to make expenditures in connection with federal elections except to the extent permitted by section 441b(b)(2) (communications by a labor organization to its members on any subject, nonpartisan registration and get-out-the-vote campaigns by a labor organization aimed at its members and their families, and the establishment, administration, and solicitation of contributions to COMPAC). Another fund, characterized by UMWA as "voluntary," was a separate segregated fund used to make contributions and expenditures in accordance with 2 U.S.C. § 441b(b)(3). The UMWA's discovery response stated that this voluntary fund was registered with, and reporting to, the Commission, and that monies "deposited into and used by this account are raised in accordance with 2 U.S.C. § 441b(b)(3)." This Office found that for soliciting contributions to this fund, UMWA used a voluntary check-off card distinct from the general dues, fees, and assessments check-off card. The UMWA averred that there was no commingling of the "non-voluntary" and "voluntary" funds. The authorization card provided to this Office clearly apprised the prospective contributor of the "voluntary" fund's separation from the "non-voluntary" fund, the political purposes of the former, and the contributor's right to refuse to contribute to the fund without reprisal, thus satisfying the requirements of 2 U.S.C. § 441b(b)(3)(B) and (C). See the General Counsel's Report in MUR 1025 dated December 13, 1979. On this basis, the Commission did not further pursue the matter.

D. Response to complaint

The response to the complaint in MUR 4351 asserts that the COMPAC assessment is made pursuant to the UMWA Constitution and collected by employers pursuant to the collective bargaining agreement between UMWA and the complainant's employer, and that therefore neither the UMWA nor COMPAC violated the Act. The response does not address the specific implications of the complaint under the Act.

E. Analysis

The $10.00 UMWA assessment on its members for COMPAC, as set out in the UMWA Constitution and as referenced in the January 26, 1996 UMWA instruction to employers, appears to be required as a condition for membership in the UMWA. Thus, the issue in this matter becomes, as it was in MUR 1025, whether COMPAC uses the assessments funds for contributions and expenditures in violation of 2 U.S.C. § 441b(b)(3)(A).

There is only indirect evidence at this time regarding COMPAC's current use of the assessment funds. In 1979, the Commission determined not to pursue the UMWA in MUR 1025 beyond reason to believe after the investigation showed that COMPAC consisted of several segregated funds, one of which was comprised of the assessments and was not used to make expenditures in connection with federal elections except to the extent permitted by section 441b(b)(2).[3] Article XV of the National Bituminous Coal Wage Agreement of 1993, which provides that employers shall deduct from members' paychecks for various union-related

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[3] As noted above, the employers are to deduct the $10.00 assessment in March and forward it to COMPAC. COMPAC's April 1995 disclosure report shows the receipt of contributions, all of which are unitemized, far in excess of any other month during the year. This Office has no information at this time, however, regarding whether these receipts represent the assessment funds, which would then raise the issue of impermissible commingling of voluntary and non-voluntary funds in violation of section 441b(b)(3)(A). See Advisory Opinion 1981-19. COMPAC's 1979 disclosure reports do not show a similar receipt pattern for any time of the year.

purposes, separately lists "assessments" and "voluntary COMPAC contributions." In addition, COMPAC uses a form titled "Authorization For Expenditure" that it has provided to the Commission on occasion as part of its disclosure reports. Attachment 1.[4] The form requests various information, including the selection of which account the expenditure is to be made from: "Voluntary," "UMWA General," "Non-Voluntary," or "Special R&E." For each of the COMPAC contributions specified on the forms this Office has reviewed, the "Voluntary" account is checked off.

In sum, although the 1993 Wage Agreement and COMPAC's expenditure form appear to be consistent with the MUR 1025 description of COMPAC consisting of "several segregated funds," this Office cannot determine for certain without investigation whether COMPAC segregates its funds today. Thus, in light of the allegations in this matter, the failure of the response to address the implications of the complaint under the Act, and the insufficiency of other evidence to clearly rebut the allegations, this Office recommends that the Commission find reason to believe that the United Mine Workers of America and the United Mine Workers of America - Coal Miners Political Action Committee and Carlo Tarley, as treasurer, each violated 2 U.S.C. § 441b(b)(3)(A).

III. <u>DISCOVERY</u>

This Office will send to UMWA and COMPAC discovery intended to determine the uses to which the assessment funds are put and the role of COMPAC therein.

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[4] COMPAC included such forms where it made contributions to retire candidates' debt. Attachment 1 is taken from COMPAC's February 1995 monthly disclosure report. This Office also notes that the form is similar to the COMPAC "Authorization for Expenditure" form provided to this Office in connection with MUR 1025.

IV. RECOMMENDATIONS

1. Find reason to believe that the United Mine Workers of America and the United Mine Workers of America - Coal Miners Political Action Committee and Carlo Tarley, as treasurer, each violated 2 U.S.C. § 441b(b)(3)(A).

2. Approve the attached Factual and Legal Analysis and the appropriate letter.

Lawrence M. Noble
General Counsel

7/19/96
Date

BY:
Lois G. Lerner
Associate General Counsel

Attachments
1. COMPAC expenditure form
2. Factual and Legal Analysis

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of United Mine Workers of America; United Mine Workers of America - Coal Miners Political Action Committee and Carlo Tarley, as treasurer.	)	MUR 4351

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on July 25, 1996, the Commission decided by a vote of 5-0 to take the following actions in MUR 4351:

1. Find reason to believe that the United Mine Workers of America and the United Mine Workers of America - Coal Miners Political Action Committee and Carlo Tarley, as treasurer, each violated 2 U.S.C. § 441b(b)(3)(A).

2. Approve the Factual and Legal Analysis and the appropriate letter, as recommended in the General Counsel's Report dated July 19, 1996.

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

Attest:

7-25-96
Date

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

Received in the Secretariat:	Mon.,	July 22, 1996	9:39 a.m.
Circulated to the Commission:	Mon.,	July 22, 1996	11:00 a.m.
Deadline for vote:	Thurs.,	July 25, 1996	4:00 p.m.

bjr

FEDERAL ELECTION COMMISSION
Washington, DC 20463

August 6, 1996

Judith E. Rivlin, Esq.
United Mine Workers of America
900 Fifteenth Street, N.W.
Washington, D.C. 20005

RE: MUR 4351
United Mine Workers of America
United Mine Workers of America - Coal Miners Political Action Committee and Carlo Tarley, as treasurer

Dear Ms. Rivlin:

On May 2, 1996, the Federal Election Commission notified the United Mine Workers of America and the United Mine Workers of America - Coal Miners Political Action Committee and Carlo Tarley, as treasurer, 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.

Upon further review of the allegations contained in the complaint, and information supplied by your clients, the Commission, on July 25, 1996, found that there is reason to believe the United Mine Workers of America and the United Mine Workers of America - Coal Miners Political Action Committee and Carlo Tarley, as treasurer, each violated 2 U.S.C. § 441b(b)(3)(A), a provision of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office along with answers to the enclosed questions within 30 days of receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

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

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

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 have any questions, please contact Mark Allen, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Questions
Factual and Legal Analysis

9 6 0 4 3 7 6 4 9 3 2

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 4351
	)	

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: United Mine Workers of America
United Mine Workers of America - Coal
Miners Political Action Committee and
Carlo Tarley, as treasurer
c/o
Judith E. Rivlin, Esq.
United Mine Workers of America
900 Fifteenth Street, N.W.
Washington, D.C. 20005

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 30 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1994 to the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

DOCUMENT REQUESTS AND QUESTIONS

1. Describe each of the categories of sources of funds that are received by the Coal Miners Political Action Committee ("COMPAC"), such as voluntary contributions from United Mine Workers of America ("UMWA") members, non-voluntary assessments from UMWA members, and sources outside UMWA.

2. For each category listed in response to question 1, state the total amount received by COMPAC during each period listed below:

   a. January 1, 1994 through December 31, 1994.

   b. January 1, 1995 through December 31, 1995.

   c. January 1, 1996 through June 30, 1996.

3. State whether funds received in the categories listed above in response to question 1 are segregated within COMPAC. If so, describe the method of the segregation, and for each of the categories, describe the types of disbursements made by COMPAC.

4. Provide copies of each type of COMPAC disbursement authorization form, and explain the information requested on the form, such as the accounts for sources of funds and the purpose of the disbursements.

5. Describe the system which the UMWA uses to solicit and collect contributions to COMPAC. Provide copies of solicitation materials and voluntary checkoff authorization forms.

6. The 1990 UMWA Constitution, Article 13, Section 9, provides that UMWA members shall pay an annual $10.00 COMPAC assessment. Describe the uses to which the collected assessment funds are put. State whether the assessment funds are used to make contributions and expenditures, as those terms are defined in 2 U.S.C. §§ 431(8), 431(9), and 441b(b)(2).

7. Provide copies of UMWA or COMPAC written policies and procedures regarding the funds COMPAC receives and spends, and the segregation of funds within COMPAC.

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS:	**United Mine Workers of America** **United Mine Workers of America - Coal Miners Political Action Committee and Carlo Tarley, as treasurer**	**MUR 4351**

I. BACKGROUND

The Commission received a complaint on April 25, 1996 from Roger Lee Hartline alleging that an annual $10.00 assessment by the United Coal Miners of America ("UMWA") for its separate segregated fund, the United Mine Workers of America Coal Miners Political Action Committee ("COMPAC"), constitutes a reverse check-off and is therefore in violation of the Federal Election Campaign Act of 1971, as amended ("the Act").

II. FACTUAL AND LEGAL ANALYSIS

A. Law

The Act provides that it shall be unlawful for a separate segregated fund to make contributions or expenditures with dues, fees, or other moneys which are required as a condition of membership in a labor organization. 2 U.S.C. § 441b(b)(3)(A). The Commission's regulations further provide that even where such fees or monies are refundable upon request by the payor, they are still considered to constitute an impermissible condition of membership or employment. 11 C.F.R. § 114.5(a)(1). In FEC v. National Education Assn., the court found that requiring a member of a labor organization who did not wish to contribute to the organization's political committee to act to prevent the contribution (termed a "reverse check-off") rather than requiring the member's affirmative assent to contribute violates section 441b(b)(3)(A). 457 F. Supp. 1102, 1106 (D.D.C. 1978). The labor organization member must be asked beforehand whether he or she wants a contribution to be deducted along with his or her dues. Id. at 1109. See also Pipefitters Local 562 v. U.S., 407 U.S. 385, 439 (1972).

B. Complaint

The complaint alleges that an annual $10.00 assessment by the United Coal Miners of America for its separate segregated fund COMPAC constitutes a reverse check-off and is therefore in violation of the Act. Specifically, the complaint lists the allegations:

1. No written authorization was taken
2. A reverse checkoff was used
3. Used as fees and dues
4. Use of force and threats[1]

The complaint includes several documents, including what appears to be a copy of a letter dated February 14, 1996 signed by complainant and 41 other union members stating that the signatories do not want the $10.00 COMPAC assessment withheld from their paychecks. The complaint also includes a copy of a document on UMWA stationery dated January 29, 1996 "[t]o signatories of United Mine Workers of America Contracts" regarding the $10.00 COMPAC assessment. The document states that the union, as required by its constitution, has approved and authorized the once-yearly assessment that "unlike the assessment made for Local Union activities, is designed for use at the International level." Employers are instructed to deduct the $10.00 from each member from the first pay period in March 1996 and send the total amount to the COMPAC treasurer. The document is signed by the UMWA president, vice president, and secretary-treasurer. Included in the complaint is a copy of complainant's statement of earnings

[1] The complaint provides no specific information regarding this allegation. Section 441b(b)(3)(A) also prohibits separate segregated funds from making contributions or expenditures by utilizing money secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal.

for the March 1996 pay period in which the $10.00 assessment was deducted. The COMPAC deduction is titled "Union ASM" and is separate from deductions for union dues and the strike fund. Finally, the complaint includes a copy of the 1990 UMWA Constitution and the National Bituminous Coal Wage Agreement of 1993. The constitution at article 13, section 9 provides that

> (a) The International Union shall assess each working member $10.00 per year to carry out the objectives of COMPAC. This assessment shall be payable in one installment. Moneys collected shall be segregated according to applicable state and federal law where necessary.
>
> (b) Any member shall have the right to object to any of their dues money being expended for activities or causes primarily political in nature. Objections must be made to the International Secretary-Treasurer by certified mail and shall be effective only for the following twelve months. At the end of that period the International Secretary-Treasurer shall remit to the objecting member that portion of their dues which has been spent for such purposes as determined by the International Executive Board.

Article XV of the Wage Agreement provides that

> The membership dues, including initiation fees, and assessments of the United Mine Workers of America and its various subdivisions, credit union, voluntary COMPAC contributions and other voluntary deductions, and Union-sponsored group auto insurance, as authorized and approved by the International Union, United Mine Workers of America, shall be checked off the wages of the Employees by the Employers covered by this contract and shall be remitted by the Employers to the properly designated officers of the Union for distribution to its various branches.
>
> . . .

Thus, it appears that the $10.00 COMPAC assessment was carried out pursuant to the UMWA Constitution and the Wage Agreement.

C. Prior MUR

The complaint in this matter is very similar to that in MUR 1025, which alleged that the UMWA had established a reverse check-off for assessing its members a $7.00 annual payment to COMPAC by requiring the payment as a condition of employment and failing to inform complainants of their right to refuse to contribute to COMPAC without any reprisal in violation of 2 U.S.C. § 441b(b)(3)(A) and (C), respectively. In that case, the Commission found reason to believe that the UMWA violated 2 U.S.C. § 441b(b)(3)(A) and investigated in order to determine whether the COMPAC assessment funded contributions and expenditures in connection with federal elections, as would be prohibited by section 441b(b)(3)(A). The investigation showed that several segregated funds comprised the COMPAC. One fund, established under article 13, section 9(a) of the UMWA Constitution,[2] was subsidized by dues, fees, and assessments which a union member authorized by check-off to be deducted from his or her wages. This fund was characterized by the UMWA as "non-voluntary" and was not used to make expenditures in connection with federal elections except to the extent permitted by section 441b(b)(2) (communications by a labor organization to its members on any subject, nonpartisan registration and get-out-the-vote campaigns by a labor organization aimed at its members and their families, and the establishment, administration, and solicitation of contributions to COMPAC). Another fund, characterized by UMWA as "voluntary," was a separate segregated fund used to make contributions and expenditures in accordance with 2 U.S.C. § 441b(b)(3). The UMWA's discovery response stated that this voluntary fund was registered with, and reporting to, the Commission, and that monies "deposited into and used by this account are raised in accordance with 2 U.S.C. § 441b(b)(3)." The Commission found that for soliciting contributions to this fund, UMWA used a voluntary check-off card distinct from the general dues, fees, and assessments check-off card. The UMWA averred that there was no commingling of the "non-voluntary" and "voluntary" funds. The authorization card provided to the Commission clearly

[2] The 1976 UMWA Constitution article 13, section 9(a) is nearly identical to that in the 1990 constitution aside from the assessment's increase from $7.00 to $10.00.

apprised the prospective contributor of the "voluntary" fund's separation from the "non-voluntary" fund, the political purposes of the former, and the contributor's right to refuse to contribute to the fund without reprisal, thus satisfying the requirements of 2 U.S.C. § 441b(b)(3)(B) and (C). See the General Counsel's Report in MUR 1025 dated December 13, 1979. On this basis, the Commission did not further pursue the matter.

D. Response to complaint

The response to the complaint in MUR 4351 asserts that the COMPAC assessment is made pursuant to the UMWA Constitution and collected by employers pursuant to the collective bargaining agreement between UMWA and the complainant's employer, and that therefore neither the UMWA nor COMPAC violated the Act. The response does not address the specific implications of the complaint under the Act.

E. Analysis

The $10.00 UMWA assessment on its members for COMPAC, as set out in the UMWA Constitution and as referenced in the January 26, 1996 UMWA instruction to employers, appears to be required as a condition for membership in the UMWA. Thus, the issue in this matter becomes, as it was in MUR 1025, whether COMPAC uses the assessments funds for contributions and expenditures in violation of 2 U.S.C. § 441b(b)(3)(A).

There is only indirect evidence at this time regarding COMPAC's current use of the assessment funds. In 1979, the Commission determined not to pursue the UMWA in MUR 1025 beyond reason to believe after the investigation showed that COMPAC consisted of several segregated funds, one of which was comprised of the assessments and was not used to make expenditures in connection with federal elections except to the extent permitted by section

441b(b)(2).[3] Article XV of the National Bituminous Coal Wage Agreement of 1993, which provides that employers shall deduct from members' paychecks for various union-related purposes, separately lists "assessments" and "voluntary COMPAC contributions." In addition, COMPAC uses a form titled "Authorization For Expenditure" that it has provided to the Commission on occasion as part of its disclosure reports.[4] The form requests various information, including the selection of which account the expenditure is to be made from: "Voluntary," "UMWA General," "Non-Voluntary," or "Special R&E." For each of the COMPAC contributions specified on the forms the Commission has reviewed, the "Voluntary" account is checked off.

In sum, although the 1993 Wage Agreement and COMPAC's expenditure form appear to be consistent with the MUR 1025 description of COMPAC consisting of "several segregated funds," the Commission cannot determine for certain without investigation whether COMPAC segregates its funds today. Thus, in light of the allegations in this matter, the failure of the response to address the implications of the complaint under the Act, and the insufficiency of other evidence to clearly rebut the allegations, there is reason to believe that the United Mine Workers of America and the United Mine Workers of America - Coal Miners Political Action Committee and Carlo Tarley, as treasurer, each violated 2 U.S.C. § 441b(b)(3)(A).

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[3] As noted above, the employers are to deduct the $10.00 assessment in March and forward it to COMPAC. COMPAC's April 1995 disclosure report shows the receipt of contributions, all of which are unitemized, far in excess of any other month during the year. The Commission has no information at this time, however, regarding whether these receipts represent the assessment funds, which would then raise the issue of impermissible commingling of voluntary and non-voluntary funds in violation of section 441b(b)(3)(A). See Advisory Opinion 1981-19. COMPAC's 1979 disclosure reports do not show a similar receipt pattern for any time of the year.

[4] COMPAC included such forms where it made contributions to retire candidates' debt, such as in COMPAC's February 1995 monthly disclosure report. The Commission also notes that the form is similar to the COMPAC "Authorization for Expenditure" form provided to the Commission in connection with MUR 1025.

United Mine Workers of America

JUDITH RIVLIN
ASSOCIATE GENERAL COUNSEL

TELEPHONE (202) 842-7330
FAX (202) 842-7342

UNITED MINE WORKERS' BUILDING
900 FIFTEENTH STREET, N. W.
Washington, D.C.
20005

September 5, 1996

Mark Allen, Esq.
Federal Election Commission
Washington, DC 20463

RE: MUR 4351

Dear Mr. Allen:

This is in response to your letter dated August 6, 1996 concerning MUR 4351. Enclosed you will find answers to questions attached to the Agency's August 6 letter.

As you may see from the attached responses to the Document Request, the complaint the Commission received on April 25, 1996 from Roger Lee Hartline, alleging an improper assessment by the UMWA for a separate segregated fund, does not warrant further proceedings and should be dismissed. In particular, the once-a-year $10 COMPAC assessment that signatory employers deduct from the pay of those employees who have signed a dues and assessment check-off form, is used solely for membership communication and other activities permitted under 2 U.S.C. §441b(b)(2)(A)-(C); it is segregated in a separate account from the account that contains the voluntary contributions which COMPAC collects from UMWA members and uses to make contributions for federal elections. To repeat, the voluntary funds that COMPAC contributes to federal candidates or expends in connection with federal elections are separately collected and segregated from the funds that are collected in the yearly assessments. There is no commingling of the "non-voluntary" and "voluntary" funds.

In short, the UMWA COMPAC collects and spends monies according to the same guidelines that the FEC General Counsel reviewed in 1979; for the same reasons that the Commission determined in 1979 not to initiate litigation pursuant to MUR 1025, we urge the Commission to reach the same determination concerning MUR 4351. Thus, the complaint should be dismissed.

Mark Allen, Esq.
September 5, 1996
Page Two

Should you have further questions, please do not hesitate to contact us.

Sincerely yours,

Judith Rivlin

Judith Rivlin

JR:la

Enclosure

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RESPONSE TO DOCUMENT REQUESTS RE: MUR 4351

1. Describe each of the categories of sources of funds that are received by the Coal Miners Political Action Committee ("COMPAC"), such as voluntary contributions from United Mine Workers of America ("UMWA") members, non-voluntary assessments from UMWA members, and sources outside UMWA.

Response:

COMPAC funds are derived primarily from two sources:

A) COMPAC Assessment -- A $10 yearly assessment provided for in Article 13, Section 9 of the International Constitution for working members.

B) COMPAC Voluntary Fund -- These funds are received in the form of voluntary contributions from our members, and at union meeting and conventions. There is no requirement that any member contribute to the COMPAC Voluntary Fund. Interest is also generated from the COMPAC Voluntary Fund.

2. For each category listed in response to question 1, state the total amount received by COMPAC during each period listed below:

a. January 1, 1994 through December 31, 1994.

b. January 1, 1995 through December 31, 1995.

c. January 1, 1996 through June 30, 1996.

Response:

	COMPAC Assessment	COMPAC Voluntary	COMPAC Vol. Interest
1994:	$371,157.00	$485,418.05	$3,794.51
1995:	$328,028.80	$434,612.30	$4,700.73
1996: (6 mos.)	$303,702.00	$250,085.79	$2,075.37

3. State whether funds received in the categories listed above in response to question 1 are segregated within COMPAC. If so, describe the method of the segregation, and for each of the categories, describe the types of disbursements made by COMPAC.

9 6 0 4 3 7 6 9 4 5

Response:

Monies are segregated. For monies collected through the COMPAC Assessment, the amounts received are either placed in the Union's general account or the COMPAC Non-Voluntary Account. The COMPAC Non-Voluntary Account is a segregated account in accordance with IRS regulations and is used to make contributions to state and local candidates, where permissible. The COMPAC Assessments that are placed in the general account are used for COMPAC non-political expenditures, such as lobbying, education, and organizational purposes.

The COMPAC Voluntary Account is a segregated account maintained in accordance with FEC regulations. This account is used to make contributions to federal and some state and local candidates, as permitted by applicable federal and state regulations. This account is funded solely from UMWA members' voluntary contributions.

4. Provide copies of each type of COMPAC disbursement authorization form, and explain the information requested on the form, such as the accounts for sources of funds and the purpose of the disbursements.

Response:

The COMPAC disbursement authorization form is attached as Exhibit A. It requires the individual seeking a contribution to specify the purpose for the expenditure and other information, as shows. The form is self-explanatory.

5. Describe the system which the UMWA uses to solicit and collect contributions to COMPAC. Provide copies of solicitation materials and voluntary checkoff authorization forms.

Response:

The Voluntary funds that COMPAC collects are raised at union meetings and conventions, and received in the mail.

6. The 1990 UMWA Constitution, Article 13, Section 9, provides that UMWA member shall pay an annual $10.00 COMPAC assessment. Describe the uses to which the collected assessment funds are put. State whether the assessment funds are used to make contributions and expenditures, as those terms are defined in 2 U.S.C. §§ 431(8), 431(9), and 441b(b)(2).

Response:

The COMPAC Assessment funds are used to make contributions to state and local candidates, where it is permitted by applicable state law; for state lobbying activities; voter registration; organization meetings (lost wages and expenses); and educational purposes. These monies are <u>not</u> used to make contributions and expenditures as those terms are defined in 2 U.S.C. §§ 431(8), 431(9), and 441b(b)(2).

7. Provide copies of UMWA or COMPAC written policies and procedures regarding the funds COMPAC receives and spends, and the segregation of funds within COMPAC.

<u>Response</u>:

Portions of the UMWA Accounting Department manual on COMPAC expenditures that detail these procedures are attached as Exhibit B.

In responding to these document requests and questions, Bill Banig, Executive Assistant to UMWA Secretary-Treasurer, and COMPAC Treasurer, Carlo Tarley, assisted in preparing all of these responses and would be able to provide further detail, if necessary.

G:\WPDOCS\JR\MISC.2\RESPONSE.MUR

AUTHORIZATION FOR EXPENDITURE DATE: ____________________

FROM: Kristin Leary ____________________ Bill Banig ____________________

AMOUNT: $____________

PAYEE: ____

____

ADDRESS: ____

____

____

STATE: ______________ CONGRESSIONAL: ______________

PURPOSE: ____

____

_______ DELIVER TO PAYEE
Use return-envelope if provided.

_______ DELIVER TO COMPAC
AT ____________

COST CENTER/BUDGET ACCOUNT

____

ACCOUNT

___ Voluntary ___ UMWA General ___ Non-Voluntary ___ Special R&E

FEC INFORMATION

_____ Not Reportable _____ Reportable FEC _____ Reportable State

For Acctg. Form Reporting Only, please indicate if:

____ Line 23: Contributions to Federal Candidates/Committees and other Political Committees

____ Line 29: Other Disbursements

EXPENDITURES EXCEEDING $500.00

Legal Approval: ________________________________

Presidential Approval: ________________________________

COMMENTS/SPECIAL INFORMATION

____

____

Revised 1996

EXHIBIT A

UNITED MINE WORKERS

OF AMERICA

COMPAC ACCOUNTING MANUAL

EXHIBIT B

GLOSSARY

ADP Input Form	A form used to submit accounting data to an automated bookkeeping system. Same as fast financial input sheet.
Assessments	Non-voluntary income obtained by assessments placed on the membership. Maintained by the UMWA as an Accounts Payable to COMPAC, transfers being made as needed for operations.
Backup	Various listings, envelopes, letters, receipts, and other documents which serve to identify the source and type of funds.
Cash Account	One of various bank accounts identifed both by number and name.
Check Processing	That person or group of persons who are assigned the responsibility of mechanically placing signatures on approved checks and mailing them.
COMPAC	Coal Miners' Political Action Committee
COMPAC Accounting Supervisor	That person assigned to oversee the COMPAC accounting and reporting functions by the COMPAC Treasurer.
COMPAC Accounts Payable (A/P)	That person or group of persons who are assigned the task of processing all expenditures for COMPAC.
COMPAC Accounts Receivable (A/R)	That person or group of persons who are assigned to the task of processing all income and accounts receivable by the COMPAC Treasurer.

Glossary (Continued)

Constitutional Requirements	Requirements under the UMWA Constitution.
Control Book	A log maintained by COMPAC A/P that indicates where each expenditure request is located from the time it is received until a check has been mailed.
Daily Tabulation Sheet of COMPAC Disbursements	A locally produced recap sheet which is maintained by Check Processing on a daily basis to provide a control on disbursements.
Donor Sub-Account Number	A number assigned to each donor upon his first donation each year. Used for identification purposes, and to allow the automated bookkeeping system to post directly to the individual's account initial and subsequent donations, and a running balance of donations.
Expenditure Request or Authorization Form	A form which is completed by COMPAC requesting the COMPAC Treasurer to make a disbursement based on given information and attached documentation.
Fast Financial Input Sheets	Same as ADP input form.
Fast Fiscal ADP Input Form	A form used to make Journal entries in the UMWA automated general ledger.
Footed	Totaled
Form Letter	A letter which is pre-printed, requiring only the insertion of the donor's name, address, and information needed. Used to obtain additional required information about a donor to allow the legal use of his donation in the COMPAC voluntary account.

Glossary (Continued)

Income Account	The account used in the bookkeeping system to identify the type of income.
Input Sheets	See ADP Input Form.
National Council of COMPAC	The governing body of COMPAC; made up of all UMWA International Executive Board members.
Other Income	Sundry receipts by COMPAC which do not fit in the three major categories.
Packets	Those requests and forms sent by the FEC and state agencies notifying PACs that a report is coming due.
Percentage of "Political-In-Nature" Expenditure Form (POL Form)	A locally maintained form used to recap monthly income and expenditure information. Space is provided to calculate monthly running totals and monthly percentages to be used in making refunds.
Pull Date	The date by which a tickler card is filed -- 10 working days prior to the required report filing date.
Receipt Form	A three part, numerically, controlled donation receipt form. The original constitutes an alphabetical donor file containing all required donor information. Copy 1 is used as a receipt for donated funds, and is mailed to the donor. Copy 2 is filed numerically and used for control purposes.
Refund Request Card	An index card which is prepared for all proper refund requests, containing member name, address, district, local and date of request. Filed by date, this card is pulled 12 months from the date of request, and used to calculate the refund.

Glossary (Continued)

Reportable File	A separate file that is maintained by COMPAC A/P that contains information reportable to various agencies.
Report Tickler Card	A card which is prepared for each election report required by the various governmental agencies indicating dates of filing and other pertinent information. The cards are filed by date, and reviewed daily so a report is not missed.
Required Information	That information which by law must be kept on file for donors to the COMPAC voluntary fund. See current FEC regulations.
Research & Education Fund	A special fund set up to accept donations which are restricted in their use due to the lack of specific required information.
Statement of Operations	A managerial statement which is one of the by-products of the automated bookkeeping system. Supplies income and expenditure information in a standard format.
UMWA A/P	The accounts payable office for general expenditures. Provides some audit functions for COMPAC A/P.
Voluntary Income Identified	Those donations received by COMPAC for which all of the FEC required information is available.
Voluntary Income Unidentified	Those donations received by COMPAC for which all of the FEC required information is not available.

United Mine Workers of America

TELEPHONE
AREA CODE 202-638-0530

UNITED MINE WORKERS' BUILDING
900 FIFTEENTH STREET, N. W.
Washington, D.C.
20005

COMPAC ACCOUNTING MANUAL

Procedures for Handling and Accounting for Funds Received

Purpose: To ensure the safeguarding of, and proper accounting for, funds received for COMPAC.

General: COMPAC funds are received at the International Headquarters daily. These funds are of four distinct types, namely, COMPAC voluntary donations, identifiable per Federal Election Commission regulations; COMPAC voluntary donations, not identifiable per FEC regulations; COMPAC assessments; and other COMPAC income. Due to the reporting requirements imposed on COMPAC by various state and federal laws, these funds must be handled separately, and in such a manner as to provide COMPAC with the necessary detailed records to properly complete reports in a timely fashion.. These procedures are designed to assist the COMPAC treasurer in meeting that end.

PROCEDURES FOR HANDLING AND ACCOUNTING FOR FUNDS RECEIVED

Responsibility	Activity
Mail clerk and one other completely trustworthy employee from the International Secretary-Treasurer's organization, working simultaneously without interruption.	1. Open all mail delivered to the International Secretary-Treasurer's office which is not marked "personal," and not addressed to an individual by name, and indicate on the envelope who should further process the contents.
	2. Separate income into two categories -- <u>COMPAC Income</u>, consisting of all voluntary donations to COMPAC, and other COMPAC-related income, such as credit/debit advices on COMPAC accounts, refunds of expenses, proceeds from COMPAC-related sales, etc., but not including COMPAC assessment receipts; and <u>UMWA Income</u>, which would include all income not attributable to COMPAC, plus COMPAC assessment receipts.
	3. All UMWA income should be processed in the ordinary manner as described in Index #5.02 UMWA Accounting Manual.
	4. A copy of all backup accompanying COMPAC Assessment receipts should be made and forwarded to COMPAC Accounts Receivable (A/R).
	5. Time and date all COMPAC receipts.
	6. Prepare an adding machine tape of all COMPAC receipts in duplicate.
	7. Time and date the machine tapes, both employees initial to verify totals.
	8. Forward both verified machine tapes to the assigned COMPAC Accounting Supervisor.
	9. Forward all COMPAC receipts and backup to COMPAC Accounts Receivable (A/R).
COMPAC A/R	1. Receives a copy of all backup for COMPAC assessments, all COMPAC income with accompanying backup.

PROCEDURES FOR HANDLING AND ACCOUNTING FOR FUNDS RECEIVED

Responsibility	Activity
COMPAC A/R	2. Reviews backup and verifies that all copies are received.
	3. Separates income and backup into four categories for handling by separate procedures. A. COMPAC Voluntary Income - Unidentified B. COMPAC Voluntary Income - Identified C. COMPAC assessments D. COMPAC other
	4. Processes COMPAC income as in the separate procedures outlined below.

A. COMPAC Voluntary Income - Unidentified

Responsibility	Activity
COMPAC A/R	1. Reviews receipt in light of current FEC regulations.
	2. If funds are believed to be unacceptable under FEC regulations, forwards them directly to the COMPAC Accounting Supervisor for review.
	3. For those funds that can be legally accepted, attempts to obtain the additional donor information required by the FEC by phone.
	4. If all necessary information is available after Step #1, process according to B, COMPAC Voluntary Income - Identified.
	5. If all necessary information is still not available, determines if sufficient information is available to correspond with the donor.

PROCEDURES FOR HANDLING AND ACCOUNTING FOR FUNDS RECEIVED

Responsibility	Activity
COMPAC A/R	6. If unable to correspond with the donor, funds are deposited to the COMPAC Research and Education Fund.
	7. Forwards the deposit slip and backup to the COMPAC Accounting Supervisor.
	8. If able to correspond with the donor, prepares a three-part, numerically, controlled receipt form, listing all available information, and prepares a form letter requesting additional donor information.
	9. Mails Copy 1 of the receipt form, and the original of the form letter to the donor.
	10. Continues with B-6 below under COMPAC Voluntary Income - Identified.

B. COMPAC Voluntary Income - Identified

Responsibility	Activity
COMPAC A/R	1. Reviews receipts in light of current FEC regulations.
	2. If donations are believed not to be acceptable under FEC regulations, forwards to the COMPAC Accounting Supervisor for review.
	3. For those funds that can be legally accepted, reviews backup to see if a three part, numerically, controlled receipt form has been prepared.
	4. If the form has not been prepared, one is completed. Copy 1 is sent to the donor.
	5. After a receipt form is completed for each doner, the daily deposit is made to the COMPAC Voluntary Account.

PROCEDURES FOR HANDLING AND ACCOUNTING FOR FUNDS RECEIVED

Responsibility	Activity
	6. Assigns a donor sub-account number to those who do not have one for the current year.
	7. Indicates the new or previously assigned donor number on the original and Copy 2 of the receipt form.
	8. Prepares a fast financial set-up entry for those donors receiving a new donor sub-account number.
	9. Prepares a fast financial ADP form debiting the COMPAC voluntary fund and crediting the donor sub-account number for each donation.
	10. Retains original backup and forwards the ADP input forms, deposit slips, and the original and Copy 2 of the receipt forms to the COMPAC accounting supervisor, along with any form letter copies from A-8 above.
	C. COMPAC Assessment Income
COMPAC A/R	1. Prepares fast fiscal ADP input form debiting A/R assessment and crediting assessment income.
	2. Forwards the ADP input form and the assessment backup to the COMPAC Accounting Supervisor.
	D. COMPAC Other Income
COMPAC A/R	1. Reviews other income to determine classification.
	2. Prepares and makes daily deposit based on the above classification.
	3. Forwards the deposit slip, and the original backup to the COMPAC Accounting Supervisor.

PROCEDURES FOR HANDLING
AND
ACCOUNTING FOR FUNDS RECEIVED

Responsibility	Activity
COMPAC Accounting Supervisor	1. Receives verified adding machine tapes from mail clerk.
	2. Receives deposit slips, form letter copies, original and Copy 2 of receipt forms, ADP input forms, income believed to be unacceptable per FEC regulations, and various backup from COMPAC A/R.
	3. Verifies the total of deposit slips to the machine tapes.
	4. If amounts do not verify, machine tapes are retained, all else is returned to COMPAC A/R for reprocessing.
	5. If amounts verify, a check is made to determine if the deposits were to the proper account. ADP input is reviewed for correctness. Receipt forms are reviewed for completeness and legibility.
	6. If any part of Step 5 is not correct, that part is returned to COMPAC A/R for reprocessing.
	7. Funds believed to be unacceptable under current FEC regulations are reviewed.
	A. If funds are acceptable, return to COMPAC A/R with directions to deposit.
	B. If funds are not acceptable, return to COMPAC A/R with directions to return the funds with appropriate letter.
	8. When all of Step 5 is correct, the ADP input forms and machine tapes are initialed, all materials are returned to COMPAC A/R.

PROCEDURES FOR HANDLING AND ACCOUNTING FOR FUNDS RECEIVED

Responsibility	Activity
COMPAC A/R	1. All returned material from the COMPAC Accounting Supervisor is separated by category.

A. Funds received that have been determined acceptable under current FEC regulations by the COMPAC Accounting Supervisor are handled according to one of the separate processes for depositing funds: A. COMPAC Voluntary Income - Unidentified, or, B. COMPAC Voluntary Income - Identified.

B. Funds received that have been determined unacceptable under current FEC regulations by the COMPAC Accounting Supervisor are returned to the source with an appropriate explanation. Return of funds are properly documented in files.

C. Form letter copies requesting additional information are filed by date for followup.

D. ADP input forms are filed chronologically for inputing to the automated systems monthly.

E. Card copies of the receipt forms are filed alphabetically. Cumulative totals from previous donations by the same party are indicated on the most recent receipt form.

F. The original of all receipt forms are filed numerically for control.

G. COMPAC non-voluntary backup is filed chronologically.

PROCEDURES FOR HANDLING AND ACCOUNTING FOR FUNDS RECEIVED

Responsibility	Activity
COMPAC A/R	H. The following items are sent to UMWA Accounting for verification and input to the fast fiscal system. 1. COMPAC voluntary fund deposit slips, original verified machine tape, and original voluntary fund backup. 2. COMPAC Research and Education Fund deposit slip, original backup, and verified machine tape.
	I. Upon return of the above items from UMWA Accounting, places in chron file.
COMPAC A/R	1. Receives responses to requests for additional donor information. 2. Indicates new information on original and card copy of the individual's receipt form. 3. If information is sufficient to comply with FEC Regulations, the form letter copy requesting additional information is removed from the active file and placed in a completed file. 4. If the information above is not complete, or if additional information is not received within 30 days, the form letter copies are sent to the COMPAC Accounting Supervisor, along with the related receipt forms.
COMPAC Accounting Supervisor	1. Receives copies of form letters requesting additional information that have not been effective, and related receipt forms from COMPAC A/R.

PROCEDURES FOR HANDLING
AND
ACCOUNTING FOR FUNDS RECEIVED

Responsibility	Activity
COMPAC Accounting Supervisor	2. Reviews in light of current FEC regulations.
	3. If funds cannot remain in voluntary fund per FEC regulations, indicates so on form letter copy and returns to COMPAC A/R with receipt forms.
COMPAC A/R	1. Receives form letter copies and receipt forms from COMPAC Accounting Supervisor.
	2. Separates letter copies with related receipt forms into two groups. A. Those that can remain in the voluntary fund. B. Those that cannot remain in the voluntary fund.
	3. For those which can remain in the voluntary fund, the form letter copy is filed in completed file, receipt forms are returned to files.
	4. For those which cannot remain in the voluntary fund, receipt form card copies are attached to the form letter copy, and used as backup to make a transfer of funds from the voluntary fund to the COMPAC Research and Education fund.
	5. A notation is made on the original receipt form that funds were transfered on a particular date. Form is then returned to the numerical control file.
	6. ADP financial Journal entries are prepared reflecting the transfer.
	7. Form letter copies with receipt form attached, ADP forms, and the transfer are sent to the COMPAC Accounting Supervisor.

PROCEDURES FOR HANDLING AND ACCOUNTING FOR FUNDS RECEIVED

Responsibility	Activity
COMPAC Accounting Supervisor	1. Receives form letter copies with receipt form attached, ADP forms, and transfer from COMPAC A/R.
	2. Reviews, initials transfer if correct.
	3. Returns to COMPAC A/R.
COMPAC A/R	1. Receives transfer and backup from COMPAC Accounting Supervisor.
	2. If not initialed, reprocesses.
	3. If initialed, completes transfer.
	4. Files ADP forms chronologically.
	5. Files transfer backup chronologically.

Approved by: Willard A. Esselty Date: 10/18/78

United Mine Workers of America

TELEPHONE
AREA CODE 202-638-0530

UNITED MINE WORKERS' BUILDING
900 FIFTEENTH STREET, N. W.
Washington, D.C.
20005

COMPAC ACCOUNTING MANUAL

Disbursement Procedures

Purpose: To provide proper documentation for, and adequate control over expenditures made from COMPAC funds.

General: COMPAC related expenditures are made from three separate funds; COMPAC Voluntary, COMPAC Research and Education and COMPAC Assessments (Non-Voluntary). The distinction between these funds arises from their source, and from restrictions imposed by state and federal laws on receipts and disbursements for political purposes. Although a determination as to which fund expenditures should be made from will be made by COMPAC, the Secretary-Treasurer still has the responsibility of seeing that such decisions are correct in light of existing laws, and for reporting expenditures on a timely basis. Disbursement procedures are, therefore, more complex for COMPAC than for general expenditures and should be reviewed constantly as state and federal laws continue to evolve.

DISBURSEMENT PROCEDURES

Responsibility	Activity
Mail clerk and one other completely trustworthy employee from the International Secretary-Treasurer's organization, working simultaneously without interruption.	1. Opens all mail delivered to the International Secretary-Treasurer's office which is not marked "personal," and not addressed to an individual by name, and indicates on the envelope who should further process the contents.
	2. Handles all income as described in Index #5.02 of the UMWA Accounting Manual and separate procedures for handling COMPAC income outlined in the COMPAC Accounting Manual.
	3. Time and dates all COMPAC mail and delivers directly to COMPAC Accounts Payable (A/P).
COMPAC A/P	1. Reviews daily mail. Separates into three categories: A. Completed expenditure requests. B. Invoices and expense statements direct from vendor or employee without completed expenditure requests, and correspondence to COMPAC administrators. C. Correspondence for COMPAC accounting.
	2. Retains completed expenditure requests for processing.
	3. Forwards invoices and expense statements without completed expenditure requests, and correspondence to COMPAC administrators to the COMPAC office manager for handling.
	4. Delivers correspondence for COMPAC accounting to the assigned COMPAC Accounting Supervisor.
	5. Enters the completed expenditure requests in control book.
	6. Reviews the expenditure requests for need of legal approval/opinion.

DISBURSEMENT PROCEDURES

Responsibility	Activity
COMPAC A/P	7. If legal action is required, logs the expenditure request out to the Legal Department in the control book and sends the form to Legal through inter-office mail.
	8. Upon return of the expenditure request from Legal, logs back in the control book.
	9. Upon return from Legal, or on initial review if legal approval/opinion is not requested, determines if Presidential approval is required.
	10. If Presidential approval is required, expenditure request is logged out to President's office in control book. Request is sent to President's office through inter-office mail.
	11. Upon return of the expenditure request from the President's office, logs back in the control book.
	12. Upon return from the President's office, or on initial review if the President's approval and legal approval/opinion are not required, separates by type:
	A. Vendor invoice - through Purchasing Department.
	B. Vendor invoice - outside Purchasing Department.
	C. Donation
	D. Employee and non-employee expenses, and lost wages.
	13. Verifies the correct spelling of payee and address.

DISBURSEMENT PROCEDURES

Responsibility	Activity
COMPAC A/P	14. Indicates "pay by" date as appropriate.
	A. If commercial bill, this date would be the last day of any discount period, or the last day prior to incurring an interest cost.
	B. If employee or non-employee expense, the "pay by" day should be the next business day.
	15. Reviews budget and sub-budget indicators for appropriateness, enters numerical budget coding above expense account number.
	16. Checks for proper expense account number.
	17. Determines if the check is to be drawn on the proper account.
	18. If unable to agree with the indicated cash account, forwards to COMPAC Accounting Supervisor for decision.
COMPAC Accounting Supervisor	1. Receives "Authorization for Expenditure" forms from COMPAC A/P which require a determination on the account to be paid from.
	2. Determines account based on current federal and state laws.
	3. Indicates the appropriate account on the form and returns to COMPAC A/P.
COMPAC A/P	1. Receives "Authorization for Expenditure" forms from the COMPAC Accounting Supervisor after indication of proper cash account.
	2. Reviews bottom of form for information indicating need for additional procedures.

DISBURSEMENT PROCEDURES

Responsibility	Activity
COMPAC A/P	3. Any comments are noted.
	4. Processes the various types of expenditure requests by the separate procedures outlined below.
	A. Vendor invoice - through Purchasing Department.
COMPAC A/P	1. Obtains completed purchase order from Purchasing Department.
	2. Obtains receiving report from appropriate source.
	3. Verifies receipt of items or service as described on purchase order - quantity, description, price and terms.
	4. Checks for proper authorization.
	5. Extends amounts - check totals, taxes and discounts.
	6. Continues with E-1 below.
	B. Vendor invoice - outside Purchasing Department.
COMPAC A/P	1. Advises Purchasing Department of order.
	2. Verifies receipt of items or service as described on invoice - quantity, description.
	3. Checks for proper authorization.
	4. Extends amounts - checks totals, taxes and discounts.
	5. Continues with E-1 below.
	C. Donation.
COMPAC A/P	1. Compares donee and amount to list approved by the National Council of COMPAC.

DISBURSEMENT PROCEDURES

Responsibility	Activity
COMPAC A/P	2. If the donee or amount is incorrect, returns to COMPAC. Logs out in control book.
	3. If the donee and amount are correct, continues with E-1 below.
	D. Employee and non-employee expenses and lost wages.
COMPAC A/P	1. Logs individual expense vouchers out to UMWA Accounts Payable office.
	2. Delivers expense vouchers to UMWA A/P for audit.
	3. Upon return of the audited expense voucher from UMWA A/P, indicates it's return in control book.
	4. Reviews the expenses attributable to COMPAC. Checks for proper coding.
	5. Continues with E-1 below.
	E. Common steps to be followed on all types of disbursements.
	1. The completed requests are separated by pay date.
	2. Appropriate entries are made on fast financial input sheets for those checks that will not be automatically inputed.
	3. Those payments to be made on a date other than the next business day are filed chronologically to be pulled one working day prior to the pay date.
	4. Those payments to be made on the next business day are forwarded to check typist, or payroll if containing lost wages, along with input sheets.
	5. Transfer is indicated in the control log.

DISBURSEMENT PROCEDURES

Responsibility	Activity
Check Typist or Payroll Clerk	1. Receives completed requests for expenditures from COMPAC A/P.
	2. Acquires check for proper account as indicated on the authorization for expenditure.
	3. Prepares check following coding supplied.
	4. Prepares envelope addressed to payee, or inter-office envelope to COMPAC.
	5. Reviews completed check for accuracy.
	6. Attaches check to backup with paper clip, forwards to COMPAC Accounting Supervisor.
COMPAC Accounting Supervisor	1. Reviews checks, backup, and input sheets for correctness.
	2. If correct, initials check in lower right hand corner, initials beside appropriate entry on input sheet, and delivers to check processing.
	3. If incorrect, returns to check typist, payroll, or to COMPAC A/P for correction.
Check Processing	1. Receives authorized checks and backup from COMPAC Accounting Supervisor.
	2. Mechanically places authorized signatures and amount on checks.
	3. Mails check in envelope provided, returns backup and check copies to COMPAC A/P.
COMPAC A/P	1. Receives backup and check copies from Check Processing.
	2. Makes appropriate entry in control book.

DISBURSEMENT PROCEDURES

Responsibility	Activity
COMPAC A/P	3. If "Political-in-Nature", or "Reportable State" is checked on expenditure request:
	A. Indicates check number and date on request form.
	B. Makes a copy of expenditure request form.
	C. Places under appropriate category in reportable file.
	4. Files backup with check copy in correct file. If necessary, makes cross reference.
	5. Files input forms chronologically for forwarding to ADP.
	6. Files second check copies numerically for input to ADP and numerical control.

Approved: Willard A. Escelsky Date: 10/18/78

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

BEFORE THE FEDERAL ELECTION COMMISSION

OCT 18 10 51 AM '96

In the Matter of	)	
	)	MUR 4351
United Mine Workers of America	)	
United Mine Workers of America - Coal Miners Political Action Committee and Carlo Tarley, as treasurer	)	**SENSITIVE**

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On July 25, 1996, the Commission found reason to believe that the United Mine Workers of America ("UMWA") and the United Mine Workers of America - Coal Miners Political Action Committee ("COMPAC") and Carlo Tarley, as treasurer, each violated 2 U.S.C. § 441b(b)(3)(A). After reviewing respondents' discovery response, this Office now recommends that the Commission take no further action and close the file in this matter.

II. ANALYSIS

The complaint alleged that an annual $10.00 assessment by the UMWA for its separate segregated fund COMPAC constitutes a reverse check-off and is therefore in violation of the Act. In light of the possibility that the assessment funds were being impermissibly used for contributions and expenditures, see 2 U.S.C. § 441b(b)(3)(A), and in light of respondents' failure to address the substance of the allegation in their response to the complaint, the Commission found reason to believe and this Office sent discovery to respondents, who responded on September 9, 1996. *Attachment.*

The response states that the assessment funds are used solely for membership communication and other activities permitted under section 441b(b)(2)(A)-(C) (non-partisan registration and get-out-the-vote campaigns; the establishment, administration, and solicitation of

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funds to a separate segregated fund). The response also states that the assessment funds are segregated in a separate account from the account that contains the voluntary contributions which COMPAC collects from UMWA members and uses to make contributions for federal elections. The response adds that there is no commingling of the assessment funds and the voluntary contributions. Attachment, page 1. This separation of accounts is consistent with COMPAC's established procedures as set out in its accounting manual, Attachment, pages 12-29, and with its procedures reviewed by the Commission in MUR 1025.

COMPAC's disclosure reports also support respondents' statements. The response lists the amounts received from the assessment and from voluntary contributions for 1994, 1995, and the first six months of 1996. Attachment, page 3. The voluntary contributions for these periods are equal to the receipts shown on COMPAC's disclosure reports.

The information currently in this Office's possession does not support the complaint's allegation that the annual assessment was collected for UMWA's political action committee or used for purposes prohibited under 2 U.S.C. § 441b(b)(3)(A). While it is not possible without an intensive use of resources, i.e., an audit, to definitely prove that COMPAC used only voluntary contributions for its contributions and expenditures, there is no evidence in hand to suggest that impermissible activity occurred, and this matter does not appear to warrant further resources. Therefore, this Office recommends that the Commission take no further action regarding the United Mine Workers of America and the United Mine Workers of America - Coal Miners Political Action Committee and Carlo Tarley, as treasurer, and close the file in this matter.

III. RECOMMENDATIONS

1. Take no further action regarding the United Mine Workers of America and the United Mine Workers of America - Coal Miners Political Action Committee and Carlo Tarley, as treasurer.

2. Close the file.

3. Approve the appropriate letter.

Lawrence M. Noble
General Counsel

10/18/96
Date

BY:
Lois G. Lerner
Associate General Counsel

Attachment
Discovery response

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
United Mine Workers of America;	)	
United Mine Workers of America -	)	MUR 4351
Coal Miners Political Action	)	
Committee and Carlo Tarley, as	)	
treasurer.	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on October 23, 1996, the Commission decided by a vote of 5-0 to take the following actions in MUR 4351:

1. Take no further action regarding the United Mine Workers of America and the United Mine Workers of America - Coal Miners Political Action Committee and Carlo Tarley, as treasurer.

2. Close the file.

3. Approve the appropriate letter, as recommended in the General Counsel's Report dated October 18, 1996.

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

Attest:

10-23-96
Date

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

Received in the Secretariat:	Fri., Oct. 18, 1996	10:51 a.m.
Circulated to the Commission:	Fri., Oct. 18, 1996	4:00 p.m.
Deadline for vote:	Wed., Oct. 23, 1996	4:00 p.m.

bjr

FEDERAL ELECTION COMMISSION
Washington, DC 20463

October 29, 1996

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Roger Lee Hartline
P.O. Box 445
37297 Monroe Street
Sardis, Ohio 43946

RE: MUR 4351
United Mine Workers of America
United Mine Workers of America
- Coal Miners Political Action
Committee and Carlo Tarley, as treasurer

96043764976

Dear Mr. Hartline:

This is in reference to the complaint you filed with the Federal Election Commission on April 25, 1996, concerning the $10.00 annual assessment by the United Mine Workers of America for its separate segregated fund, the United Mine Workers of America - Coal Miners Political Action Committee.

Based on that complaint, on July 25, 1996, the Commission found that there was reason to believe the United Mine Workers of America and the United Mine Workers of America - Coal Miners Political Action Committee and Carlo Tarley, as treasurer, each violated 2 U.S.C. § 441b(b)(3)(A), a provision of the Federal Election Campaign Act of 1971, as amended, and instituted an investigation of this matter. However, after considering the circumstances of this matter, the Commission determined to take no further action against respondents, and closed the file in this matter on October 23, 1996. See the enclosed General Counsel's Report. This matter will become part of the public record within 30 days. The Federal Election Campaign Act of 1971, as amended, 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 me at (202) 219-3400.

Sincerely,

Mark Allen

Mark Allen
Attorney

Enclosure
General Counsel's Report

FEDERAL ELECTION COMMISSION
Washington, DC 20463

October 29, 1996

Judith E. Rivlin, Esq.
United Mine Workers of America
900 Fifteenth Street, N.W.
Washington, D.C. 20005

RE: MUR 4351
United Mine Workers of America
United Mine Workers of America - Coal Miners Political Action Committee and Carlo Tarley, as treasurer

96043764978

Dear Ms. Rivlin:

On August 6, 1996, you were notified that the Federal Election Commission found reason to believe that the United Mine Workers of America and the United Mine Workers of America - Coal Miners Political Action Committee and Carlo Tarley, as treasurer, each violated 2 U.S.C. § 441b(b)(3)(A). On September 5, 1996, you submitted a response to the Commission's reason to believe findings. After considering the circumstances of the matter, the Commission determined on October 23, 1996, to take no further action against these respondents, and closed the file in this matter.

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

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Mark Allen

Mark Allen
Attorney

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4351

DATE FILMED 11-18-96 CAMERA NO. 4

CAMERAMAN JMB

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