



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4439

DATE FILMED 1/16/98 CAMERA NO. 2

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ORIGINAL



National Republican Congressional Committee

Bill Paxton, M.C.
Chairman

Maria Cino
Executive Director

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

AUG 13 1 45 PM '96

August 5, 1996

BEFORE THE FEDERAL ELECTION COMMISSION

Tom Fricano For Congress Committee

The United Automobile Workers

MUR # 4439

COMPLAINT

I. SUMMARY

The UAW is making, and Tom Fricano for Congress is accepting, unlawful solicitations on behalf of Fricano's Congressional campaign. These solicitations lack basic disclaimers and identifiers required by federal tax and election laws. Specifically,

1. The UAW has established a "Web-site" on the Internet at which solicitations for Fricano's campaign are made. Federal law forbids labor unions from making expenditures "in connection with" federal elections, 2 U.S.C. § 441b(a) (1994), and the UAW Web-site solicitation violates this statute.
2. The UAW Internet solicitation on behalf of Fricano for Congress fails to comply with Internal Revenue & Federal Election mandatory disclaimer laws.

II. JURISDICTION

The National Republican Congressional Committee ("N.R.C.C."), by and through its Executive Director, Maria Cino, brings this complaint pursuant to 2 U.S.C. § 437g(a)(1) (1994). The N.R.C.C. is located at 320 First Street, S.E., Washington, D.C. 20003.

320 First Street, S E
Washington, D C 20003
(202) 479-7020

III. FACTS & DISCUSSION

1. The UAW's Solicitations of Contributions on Behalf of Fricano for Congress on the Union's Internet Web Site Lack Federally-Mandated Disclaimer Notifications and Constitute Unlawful Contributions from a Prohibited Source

Thomas Fricano is director of the United Auto Workers' ("UAW") Region 9 based in Cheektowaga, New York. Fricano is presently running for U.S. Congress, seeking to represent the 27th district of New York.

Like many corporate and labor organizations, the UAW maintains an Internet WorldWideWeb sight to publicize its issues and to disseminate its news. Anyone with a computer hooked up to the Internet can access this Web site by entering its address, "<http://www.uaw.org/>." *See UAW Internet Home Page, attached hereto as Exhibit 1.* Upon entering this address, the "surfing" public is brought to the UAW International Union home page, which itself provides multiple "links" to related union information. Note that there are no FEC disclaimers offered on the UAW home page. *Id.* Upon information and belief (and the fact that the UAW PAC does not itemize any costs for Internet site maintenance), the UAW Web site is paid for and maintained with the UAW's general treasury funds.

One site link offered on the UAW Home Page allows users to access the "UAW Solidarity" Magazine. *See UAW Internet UAW Solidarity Page (Exh. 2).* Note that the general public could access *UAW Solidarity* directly by entering the address "<http://www.uaw.org/solidarity/magazines.html>" on their computer. The UAW Solidarity main page offers no legally-required FEC or IRS disclaimers. *Id.* One page within the June/July edition of *UAW Solidarity* magazine is entitled "Union This Month," and within that specific site is posted a feature on "Campaign '96" labeled "A Worker Runs For Congress." *See UAW Web Site re: Campaign '96, http://www.uaw.org/solidarity/9606/11.html (Exh. 3).* On that page the labor union declares:

Contributions to help Fricano's campaign are urgently needed and can be sent to:...

This Web page then provides the campaign address to which donors can mail contributions to Tom Fricano. Neither this page nor any other within the entire "UAW Solidarity" magazine offers any disclaimers such as:

- (1) Who paid for the solicitation. **REQUIRED** by 2 U.S.C. § 441d(a).
- (2) Whether the Fricano campaign authorized the solicitation. **REQUIRED** by 2 U.S.C. § 441d(a).

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- (3) Explaining that contributions are not tax deductible. **REQUIRED** by 26 U.S.C. § 6113 (1996). *Section 6113 of the Internal Revenue Code requires political committees whose gross annual receipts normally exceed \$100,000 to include a special notice on their solicitations to inform solicitees that contributions are NOT tax deductible. Failure to disclose that contributions are nondeductible results in a mandatory penalty of \$1,000 for each day on which such a failure occurred. 26 U.S.C. § 6710 (1996).*
 - (4) Requesting contributors' names, addresses, occupation and employer as is **REQUIRED** by 2 U.S.C. § 432(i).

It is unlawful for labor unions to make any expenditures in connection with federal elections. 2 U.S.C. § 441b(a) (1994). Illegal labor union expenditures include all funds spent on communications that solicit funds and/or constitute "express advocacy." *See FEC v. Massachusetts Citizens For Life*, 479 U.S. 238, 249 (1986). Solicitations of contributions on the Internet constitute public political advertising and are considered contributions. *See FEC Advisory Opinion 1995-9 (Exh. 4)*. Such solicitations require clear and conspicuous disclaimers under FEC and IRS law. *Id.*; 2 U.S.C. § 441d(a). It was and remains unlawful for the UAW to make (and for Fricano to accept) this contribution from a labor union. 2 U.S.C. § 441b(a).

2. **It Is Unlawful for UAW to Use Compelled Union Dues for Partisan Political Purposes.**

Labor unions cannot make political contributions, and even their PACs cannot expend funds that were involuntarily contributed. According to federal law, it is unlawful for a labor union:

to make a contribution or expenditure by utilizing money or anything of value secured by . . . dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment

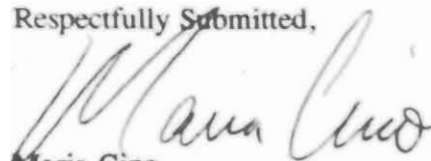
2 U.S.C. § 441b(b)(3)(A) (1994).

By taking general treasury funds -- comprising mandatory dues levied on workers of varying political beliefs -- and spending these moneys on partisan political efforts, the UAW violates § 441b(b)(3)(A). Thomas Jefferson once insisted that "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors is sinful and tyrannical." The UAW is doing exactly what Mr. Jefferson found so unconscionable. Since FEC law similarly rejects such expenditures, the UAW must stop making (and Fricano must cease accepting) such unlawful contributions.

IV. PRAYER FOR RELIEF

The Commission should investigate the Tom Fricano for Congress Campaign and its improper acceptance of labor union contributions and solicitations on the campaign's behalf. All necessary and appropriate measures should be taken pursuant to 2 U.S.C. 437g(d)(1) to remedy these unlawful activities and to deter future illegality.

Respectfully Submitted,


Maria Cino
Executive Director

District of Columbia

Signed and sworn to before me this 5th day of August, 1996.


NOTARY PUBLIC

My commission expires: Feb 28, 1999

98043853952

Text only



Congress Taking Aim at Your Overtime Rights.



Welcome to the



INTERNATIONAL UNION

"We in organized labor are a social movement. We're the only institution that stands up for working men and women."
—UAW President Steve Yokich



What's happening: [UAW releases](#), [worker news](#) & [Washington Report](#)



Action alert! [House-passed bill undermines your rights](#)



UAW magazines on-line: [UAW Solidarity](#) & [AMMO](#)



Why UAW? [FAQs](#) on the union, what we do

EXHIBIT 1



LISTEN to the Solidarity Anthem (259K)

Audio is AU format.

EXHIBIT 2



June/July 1996



- Cars 'R Us
- Capitol Hill Blues
- On The Road Again
- We Build What We Buy
- The Way We Were



May 96

- Fighting for Job Security
- No Scab Papers
- Dole and Clinton on Worker Issues
- School Bus Companies Make a U-Turn
- Workers' Lives, Workers' Loves

Bargaining talks on new contracts covering 400,000 UAW members at Big 3 automakers opened in June.

UAW President Stephen P. Yokich and Vice-President Ernest Lofton led a rank-and-file bargaining team at Ford June 10. Yokich, Vice-President Jack Laskowski, and UAW-Chrysler members opened talks June 11, and on June 12, Yokich and UAW Vice-President Richard Shoemaker and rank-and-file negotiators opened negotiations at GM.

Talks at all three chains are expected to focus on job security, following the goals set at the UAW's collective-bargaining convention in April. Among those goals are ending the contracting-out of work that UAW members have traditionally performed or could perform; curbing excessive overtime and reducing worktime, and, in general, challenging corporate "downsizing" which could threaten UAW members' security.

PLANT CLOSINGS: Other union goals include seeking a moratorium on plant closings, an issue that was put into sharp focus earlier this spring when GM announced it was considering selling one Michigan plant, closing a plant in Albany, Georgia, and seeking a joint venture partner at another Michigan facility. Such plans are "unwarranted, disruptive, and damaging to the UAW-GM relationship," Shoemaker said, "and no one should underestimate our determination to address these matters on an equitable basis."

CAMPAIGN '96

A Worker Runs For Congress

Tom Fricano, a GM worker who rose through the union's ranks to become director of UAW Region 9, is running for Congress against a New York Republican with a zero voting record on worker issues.

Incumbent Bill Paxon voted to cut Medicare, to empower "company" unions, and against the banning of striker replacements. The *Almanac of American Politics* reports that after he promised \$10,000 a year to state senate Republicans, they redrew district boundaries to make it strongly Republican. Paxon, an extreme right-winger, heads the Republican Campaign Committee and has raised \$60 million from bankers and wealthy industrialists to put more right-wingers into Congress.

That doesn't scare Fricano, who's been a strong UAW member since being hired as an apprentice electrician at the Chevrolet Forge plant in Tonawanda, New York in 1959.

A victory is "doable," he told a campaign kickoff, because Republicans and Democrats alike are hurting, and will respond to a candidate who challenges Faxon on issues like cuts in Medicare and tax breaks for the wealthy.

UAW President Stephen P. Yokich emphasizes that a Fricano victory for workers everywhere who are being hurt by Republican economic and labor policies.

Contributions to help Fricano's campaign are urgently needed, and can be sent to: Tom Fricano for Congress, Box 966, Amherst, NY 14226-0966.

¶ 6146] AO 1995-9 Solicitation of Contributions on the Internet

A nonconnected political committee's proposed use of the Internet, including a World Wide Web site, to distribute communications regarding Speaker Newt Gingrich and to solicit contributions constituted public political advertising. The materials available on the Internet included the requisite clear and conspicuous disclaimers.

In addition, the committee could use the Internet and related technology to accept contributions using credit cards, electronic funds transfers and other electronic means, provided recordkeeping and reporting requirements were met.

The committee's proposed sample of an on-line contributor response form for obtaining contributor information, along with its explanation that if a potential contributor failed to supply the requested information an immediate follow-up message would be sent, complied with the best efforts requirements.

Finally, in order to insure that contributions from prohibited sources were not made or accepted, the cautionary language had to be changed to reflect that the contributions were directed to the committee.

The committee was prohibited from using Mr. Gingrich's first or last name as part of its committee name, but could use those names as part of the project name for the operation of the World Wide Web site. Finally, the public posting of the list of contributors to Mr. Gingrich's campaign committee was permitted, but a cautionary statement regarding the statutory limitations on the use of those names should be included in the posting.

Answer to Matt Dorsey, Treasurer, NewtWatch PAC, 1837 16th Street, N.W., Washington, D.C. 20009

[Advisory Opinion in Full Text]

This responds to your letter dated March 8, 1995, and supplementary materials received on March 24, requesting an advisory opinion on behalf of NewtWatch PAC ("the Committee") concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to contributions to the Committee.

You state that the Committee's mission is to "provide a forum for publicly available information on selected public officials, most notably Speaker of the House Newt Gingrich" and that it "exists principally as a 'virtual PAC' on the World Wide Web." Anyone who has the necessary computer equipment can access the information the Committee provides through the Internet by using the uniform resource locator <http://www.cais.com/newtwatch/>. Materials available on the Committee's World Wide Web site about Speaker Gingrich include his voting record on selected issues, information about the Ethics Committee and FEC complaints, contribution data from political action committees and individuals, personal finances, honoraria, and his sponsorship of commemorative bills. The Committee filed a statement of organization on February 22, 1995.

You present several questions regarding the Committee's use of the Internet and the World Wide Web to solicit and accept contributions.

Question 1

You ask the Commission to confirm that the Committee's use of the Internet, specifically a World Wide Web site, to distribute its communications regarding Speaker Gingrich and to solicit contributions constitute general public political advertising under 11 CFR 110.11(a)(1).¹

The term "general public political advertising" is not defined in the Act or Commission regulations, but may be applied on a case-by-case basis to forms of communication not specifically listed in 11 CFR 110.11. In recent years, there has been a rapid expansion of services available on the Internet, a sizable increase in the number of persons using it, increased ease of accessing the Internet, and a decline in the costs of hardware and software needed to do so. The Commission concludes that the combination of these factors means that use of the World Wide Web site operated by the Committee should be viewed as a form of general public political advertising under 11 CFR 110.11.

The materials available on the Committee's World Wide Web site on and after March 14, 1995 include the following disclaimer: "Paid for by NewtWatch and not authorized by any candidate or

¹ Because your committee is not the authorized committee of any presidential candidate, this advisory opinion does not address the separate and additional issues raised by 20 U.S.C. §§ 9031-9042 and related Commission regulations at 11 CFR Parts 9031-9039 regarding the use of the Internet by a presidential candidate to solicit or accept contributions.

² You also ask whether the use of the Internet constitutes political advertising in a general public communication under 11 CFR 100.7(b)(15)(i) and 100.7(b)(17)(i). These provisions are applicable only to state and local committees of political parties, and thus do not appear to be implicated by the activities of your committee.

candidate's committee." The Commission concludes that the wording of this disclaimer complies with 2 U.S.C. § 441d(a)(3) and 11 CFR 110.11(a)(1)(iv)(A).³

Disclaimers are located at the end of the home page⁴ and immediately following the request for contributor information. They are printed in the same size type as much of the body of the communication. Accordingly, the disclaimers are presented in a clear and conspicuous manner, as required by 11 CFR 110.11(a)(1).

Question 2

You ask whether the Committee may use the Internet, the World Wide Web and related technology to accept contributions "using credit cards, electronic fund transfers and potentially other electronic means." You state that you wish to use the service of First Virtual Holding Company ("FVHC"), a financial services company specifically created to enable on-line commerce via the Internet. Included in your request is part of the on-line information provided by FVHC to sellers and purchasers describing its services. Contributors would need to have accounts with FVHC and provide FVHC with their credit card number. Contributors then complete the Committee's solicitation form and provide their FVHC Account ID number (which is not the same as their credit card number). The Committee will then notify FVHC of the transaction. Before the transaction is actually processed, however, FVHC sends the contributor an e-mail message requesting confirmation of the transaction. The contributor has the option of either approving or disapproving the transaction. From time to time, the contributor's credit card would be billed for accrued charges and the Committee's checking account would be credited with payment.

The Commission has not previously considered this type of procedure. The Commission has, however, recognized that the Act and regulations allow lawful contributions to be made not only by personal check, but also in other ways, including properly documented use of contributors' credit cards (Advisory Opinions 1978-68 [CCH FEDERAL ELECTION CAMPAIGN FINANCING GUIDE ¶ 5357] and 1984-45 [CCH FEDERAL ELECTION CAMPAIGN FINANCING GUIDE ¶ 5786]), automatic fund transfers from contributors' bank accounts to a committee account (Advisory Opinion 1989-26 [CCH FEDERAL ELECTION CAMPAIGN FINANCING GUIDE ¶ 5974]) and telephone calls to 900 line services (Advisory Opinions 1991-20 [CCH FEDERAL ELECTION CAMPAIGN FINANCING GUIDE ¶ 6027] and 1990-1 [CCH FEDERAL ELECTION CAMPAIGN FINANCING GUIDE ¶ 5980]). The situation you present involves the use of credit cards and appears to be very similar to these situations. Accordingly, the Commission concludes that nothing in the Act or Commission regulations precludes the implementation of your proposed contribution system, provided the recordkeeping and reporting requirements described below are followed.

Under Commission regulations, a contribution is considered "made" when the contributor relinquishes control. 11 CFR 110.1(b)(6). In the situation you propose, the Commission would view the date the contributor sends the electronic confirmation to FVHC as the date the contribution is made. This situation is similar to the transactions presented in Advisory Opinion 1990-4 [CCH FEDERAL ELECTION CAMPAIGN FINANCING GUIDE ¶ 5983]. The date your committee receives the contribution will be the date on which the Committee receives notice that the contributor has confirmed the charge to his or her FVHC account.

The expenses incurred by FVHC, which is a corporation, in providing services facilitating this program would be a prohibited contribution by FVHC if uncompensated. 2 U.S.C. § 441b(a); 11 CFR 114.2(b). You state that FVHC charges a 2% commission on all transactions, and that the Committee intends to pay and report this normal and customary commission as an operating expenditure pursuant to 11 CFR 104.3(b)(1)(i) and (3)(i). In a subsequent communication, you provided materials indicating that FVHC also charges a \$10 registration fee, a 29-cent fee per transaction, and a \$1 processing fee each time a payment is made by FVHC to your account.

The Commission concludes that these amounts are operating expenditures of the Committee and are reportable by it pursuant to the Act. 2 U.S.C. §§ 432(c)(5) and 434(b)(5)(A); 11 CFR 102.9(b) and 104.3(b)(3) and (4). The 2% charge, and the other fees to be paid by the Committee, appear to be the usual and normal charge for the services to be provided by FVHC. 11 CFR 100.7(a)(1)(iii)(A). See Advisory Opinions 1989-26 and 1978-68. Note that the Committee must treat the full amount of a donor's contribution as the contributed amount for purposes of the limits and reporting provisions of the Act, even though the Committee will receive a lesser amount because of FVHC's fees.

Your request recognizes your obligation to comply with the recordkeeping and reporting requirements of the Act. 2 U.S.C. §§ 432 and 434. The documentation required under 2 U.S.C. § 432(c) and

³ The materials attached to your advisory opinion request included a different formulation of the disclaimer, which does not need to be addressed given that the previous disclaimer was updated as of March 14th.

⁴ A home page is the first page a user will see when accessing a particular World Wide Web site. It functions as a combination of an introduction, a table of contents and an advertisement for the Web site.

regulation sections 102.9 and 104.14 must be preserved and available for audit, inspection or examination by the Commission for at least three years after the filing of the report to which the documentation relates. See 2 U.S.C. § 432(d) and 11 CFR 102.9(c) and 104.14(b)(3).

When applying the requirements of these regulations, the Commission has previously permitted the maintenance of certain types of committee records in non-paper form. See Advisory Opinions 1994-40 [CCH FEDERAL ELECTION CAMPAIGN FINANCING GUIDE ¶ 6136] and 1993-4 [CCH FEDERAL ELECTION CAMPAIGN FINANCING GUIDE ¶ 6086]. Electronic transactions of this nature must entail the creation and maintenance of a complete and reliable "paper trail" for recordkeeping, disclosure and audit purposes. In addition to the records FVHC will provide to you regarding contributions, you have indicated in a subsequent communication that the contributor information, confirmation records and attestations (see discussion below) will be sent electronically to a computer file containing a log of contributor data.⁵ The Committee should take steps to ensure that the contributor data is backed up in a form that enables the Committee to maintain either machine readable or paper copies of these records for three years after the date on which it reports the contributions.

Question 3

You ask whether the Committee, using the Internet and related technology, can adequately ensure that it makes best efforts to obtain, maintain and submit contributor information required by the Act. This includes the name and address of any individual whose previous contributions to the Committee in the same calendar year aggregate over \$200, together with the date and full amount of the individual's contribution, as well as his or her occupation and employer. 2 U.S.C. §§ 432(c)(1) and (c)(3) and 434(b)(3)(A); 11 CFR 102.9(a)(2) and 104.3(a)(4)(i). For contributions in excess of \$50 that aggregate to \$200 or less for the calendar year, a record of the same information must be kept minus the occupation and employer's name. 2 U.S.C. § 432(c)(2) and 11 CFR 102.9(a)(1). See Advisory Opinion 1980-99 [CCH FEDERAL ELECTION CAMPAIGN FINANCING GUIDE ¶ 5550] with respect to contributions of \$50 or less.

You have provided a sample of the on-line contributor response form you propose to use to obtain this information. You explain that if a potential contributor fails to supply this information, he or she will receive an immediate message asking again for the information.⁶

The Commission notes that 11 CFR 104.7(b)(2) requires you to make one oral or written follow-up attempt to obtain the information for any contribution you receive that exceeds \$200 and lacks the contributor's identification. The request must be made no later than thirty days after the Committee receives the contribution. In the unique situation you present, the follow-up request may consist of an electronic message sent to the contributor's E-mail address. However, such request must be made after the committee receives notice of the donor's confirmation and must meet the specific requirements of 11 CFR 104.7(b)(2). Accordingly, if the above steps are taken, your method would appear to satisfy the Act's recordkeeping and reporting requirements.

Question 4

Your request raises a question as to whether you can adequately ensure that contributions from prohibited sources are not made or accepted, given the unique global nature of the Internet and the unrestricted access to your World Wide Web site. You have described in detail the methods you intend to employ to safeguard against the receipt of excessive contributions, contributions in the name of another, and contributions from corporations, labor organizations, national banks, federal government contractors and foreign nationals, which are prohibited by the Act. 2 U.S.C. §§ 441b, 441f, 441e, and 441a(a)(1)(A). The sample solicitation materials you submitted include a form on which contributors are asked to attest that they are making the contribution from their own funds and not those of another. They are also asked to attest that the contribution is not from the general treasury funds of a corporation, labor organization or national bank. The sample form also requests attestations that contributors are not Federal government contractors and are not foreign nationals who lack permanent resident status in the United States.

You have also included samples of the on-line responses would-be contributors will receive if any of these boxes are checked "no" or left blank. The proposed responses state in large type "Sorry, Federal law prevents us from accepting contributions from a foreign national who lacks permanent resident status in the United States." "Sorry, Federal law prevents us from accepting contributions from a Federal government contractor." "Sorry, Federal law prevents us from accepting contributions from

⁵ The "server" is a computer that stores and distributes the pages for a particular World Wide Web site. It also records the contributor data.

applies to the FVHC identification number rather than the occupation and employer information.

⁶ The Commission suggests that you modify the reference "(Required for First virtual)" so as to make clear that it

general treasury funds of a corporation, labor organization or national bank," and "Sorry, Federal law prevents us from accepting contributions from funds other than those of the donor." In smaller type, each of these responses to potential contributors also says "If you think you may have filled out the contribution form incorrectly you should try again."

The following cautionary language should be substituted instead of your proposed language, to let potential contributors know that the Act may affect not only the ability of the Committee to accept their contributions, but also their ability to contribute: "Sorry, Federal law prohibits foreign nationals who lack permanent residence status from contributing to NewtWatch,"⁷ "Sorry, Federal law prohibits corporations, labor organizations or national banks from contributing general treasury funds to NewtWatch," "Sorry, Federal law prohibits any person from contributing another person's funds to NewtWatch," and "Sorry, Federal law prohibits government contractors from contributing to NewtWatch."

The Commission notes that the Committee may receive responses to its solicitation from minor children (persons under 18 years of age) who have access to the Internet and the Committee's World Wide Web site. The Committee may accept these contributions if the minor makes the decision to contribute knowingly and voluntarily, and the child contributes his or her own funds, and the contribution is not controlled by another individual or made from the proceeds of a gift given to provide funds to be contributed. 11 CFR 102.14(b)(2). Accordingly, to ensure that contributions from minors meet these standards, you should revise your attestation to inform potential contributors of these requirements.

Other Issues

A. Committee and Project Names

You state that as Treasurer of the Committee it is your intention to fully comply with the Act and regulations. The Commission notes that the following issues are also raised by your proposed activity.

First, the Committee, which is not the authorized committee of any candidate, and the World Wide Web site are both named "NewtWatch." Reports filed by Speaker Gingrich's authorized committee, Friends of Newt Gingrich, show that the Speaker's authorized committee received over \$5000 in contributions after the 1994 general election and reported no debts or obligations, thereby qualifying him as a candidate for 1996. 2 U.S.C. § 431(2).

The Act and Commission regulations prohibit an unauthorized committee from including the name of any candidate in its committee name. 2 U.S.C. § 432(e)(4); 11 CFR 102.14(a). This restriction applies to the use of a candidate's first name where the first name clearly conveys the identity of the candidate. See, *Buckley v. Valeo* [CCH FEDERAL ELECTION CAMPAIGN FINANCING GUIDE ¶ 9001], 424 U.S. 1, 43 fn. 51 (1976) (candidate is clearly identified where his or her name, nickname, initials, photograph, or other unambiguous reference appear as part of a communication). The Commission concludes that the term "NewtWatch" may not be used as part of the Committee's name.

In contrast to the committee name restrictions, a candidate's name may be used in the title of a special project operated by an unauthorized committee if the project title clearly and unambiguously shows opposition to the named candidate. 11 CFR 102.14(b)(3). The operation of a World Wide Web site would be considered a project of the Committee. Here, the Commission notes that under the regulations, phrases showing clear and unambiguous opposition to a candidate are not limited to specific words such as "defeat" or "oppose." The use of the term "watch," when coupled with a candidate's name, conveys clear and unambiguous opposition to the candidate being watched. "NewtWatch" connotes your view that Speaker Gingrich needs to be kept under careful and constant close scrutiny, and your view that users need to be on the alert or to be on their guard with respect to Speaker Gingrich. Accordingly, the Act and Commission regulations do not prohibit the Committee from using the name "NewtWatch" as a project name.

B. Use of FEC Contributor Data

⁷ As discussed below, a revised committee name should be substituted for the name "NewtWatch."

Second, a perusal of the materials available through the World Wide Web site includes lists of contributors who gave \$200 or more to Speaker Gingrich's authorized committee. These lists include the contributors' cities and states but do not include their street addresses or telephone numbers. The lists are preceded by the statement, "While FEC data is public information, use of this data for fundraising purposes is prohibited by federal law."

The Act requires the Commission to make available for public inspection and copying committee reports containing the name and mailing address of individual contributors giving over \$200 per calendar year. The Act further provides that "any information copied from such reports or statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee." 2 U.S.C. § 438(a)(4).

Based on the legislative history of the Act, the Commission has previously stated that the principal purpose of restricting the sale or use of information copied from reports is to protect individual contributors from having their names sold or used for commercial purposes. See Advisory Opinions 1995-5 [CCH FEDERAL ELECTION CAMPAIGN FINANCING GUIDE ¶ 6140], 1989-19 [CCH FEDERAL ELECTION CAMPAIGN FINANCING GUIDE ¶ 5966], 1984-2 [CCH FEDERAL ELECTION CAMPAIGN FINANCING GUIDE ¶ 5748] and 1980-101 [CCH FEDERAL ELECTION CAMPAIGN FINANCING GUIDE ¶ 5551]. The sponsor of the amendment creating this restriction stated that the purpose was the protection of the privacy of the "very public-spirited citizens" who make contributions to campaigns. 117 Cong. Rec. 30057-58 (1971) (remarks of Senator Bellmon). In *Federal Election Commission v. Political Contributions Data, Inc.* [CCH FEDERAL ELECTION CAMPAIGN FINANCING GUIDE ¶ 9305], 943 F.2d 190 (2d Cir. 1991) ("FEC v. PCD"), the Second Circuit concluded that where a similar list lacked mailing addresses and phone numbers, and contained a caveat against solicitation and commercial use, there is little risk, if any, of solicitation or harassment of contributors. The court stated that it was "virtually certain that these reports will be used for informative purposes (similar to newspapers, magazines, and books . . .)."

The Commission concludes that the inclusion of the lists of contributors to the Friends of Newt Gingrich committee does not violate 2 U.S.C. § 438(a)(4). The lists do not appear to contain sufficient information to generate solicitations to Speaker Gingrich's contributors. Moreover, the public posting of contributor information on the World Wide Web site appears similar to the situation in *FEC v. PCD*.

Nevertheless, the Commission cautions you that the statement you include in the communications available on the World Wide Web site should be amended to reflect that the statutory prohibition applies to the sale or use of contributors' names copied from FEC reports for commercial purposes, as well as sale or use for purposes of soliciting contributions.

This response constitutes an advisory opinion concerning application of the Act, or regulations prescribed by the Commission, to the specific transaction or activity set forth in your request. See 2 U.S.C. § 437f.

Dated: April 21, 1995

[¶ 6147] AO 1995-10 Committee's Records Owned by Current Treasurer

The principal campaign committee of a candidate for the U.S. Senate and the committee's current treasurer had legal title to and control over all the committee's records, including those generated during the tenure of the former treasurer. The former treasurer could not maintain control over records created during her tenure despite her claims that (1) state law governed the dispute, (2) the records were the property of the former treasurer, and (3) the former treasurer needed to retain the records in order to comply with the Federal Election Campaign Act and be in a position to respond to any inquiry by the Federal Election Commission.

The FECA and its implementing regulations specify in great detail the recordkeeping and record retention responsibilities of political committees and their treasurers, with the treasurer having the primary and personal duty to perform those responsibilities. Further, the FECA preempts any state law pertaining to the campaign committee's obligations to organize itself, to keep records, and to file reports relying on the information retained in those records, including any state law relating to who has title or ownership rights to the records.

The committee would be in compliance with federal recordkeeping requirements relating to records retained by the former treasurer if it could demonstrate that it had taken "best efforts" to obtain those records and if it identified the former treasurer as the custodian of those records in its Statement of Organization. Although the committee would not be in violation of the recordkeeping requirements because the former treasurer failed to return the records, the lack of



FEDERAL ELECTION COMMISSION

Washington, DC 20463

August 19, 1996

Maria Cino, Executive Director
National Republican Congressional Committee
320 First Street, SE
Washington, DC 20003

RE: MUR 4439

Dear Ms. Cino:

This letter acknowledges receipt on August 13, 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 4439. 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,

A handwritten signature in dark ink, appearing to read "Colleen T. Sealander", is written over a circular stamp or seal.

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosure
Procedures

98043853961



FEDERAL ELECTION COMMISSION

Washington, DC 20463

August 19, 1996

Edward F. McKee, Treasurer
Tom Fricano for Congress
4455 Transit Road, Suite 3B & 3C
Williamsville, NY 14221

RE: MUR 4439

Dear Mr. McKee:

The Federal Election Commission received a complaint which indicates that Tom Fricano for Congress ("Committee") 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 4439. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Committee and you, as treasurer, in 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

cc: Thomas M. Fricano

20043853903



FEDERAL ELECTION COMMISSION

Washington, DC 20463

August 19, 1996

Stephen P. Yokich, President
United Automobile, Aerospace, and Agricultural
Implement Workers of America International Union (UAW)
8000 E. Jefferson
Detroit, MI 48214

RE: MUR 4439

Dear Mr. Yokich:

The Federal Election Commission received a complaint which indicates that the United Automobile, Aerospace, and Agricultural Implement Workers of America International Union (UAW) 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 4439. 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 Automobile, Aerospace, and Agricultural Implement Workers of America International Union (UAW) 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.

93043853954

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

9 8 7 4 3 8 5 3 9 6 5

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

SEP 6 10 09 AM '96

Fricano

For Congress

September 2, 1996

Edward F. McKee, Treasurer
Fricano for Congress Committee
4455 Transit Rd., Suite 3B & 3C
Williamsville, NY 14221

RE MUR 4439

Ms. Colleen T. Sealander, Attorney
Central Enforcement Docket
Federal Election Commission
999 E Street, NW
Washington, D.C. 200463

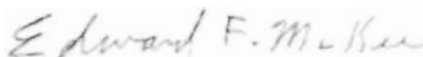
Dear Ms. Sealander:

I am responding to your letter dated August 19, 1996 that I received on August 21, 1996 informing me of a complaint filed by the Republican National Congressional Committee against Fricano for Congress ("Committee") and myself, as treasurer. The complaint relates to actions of the International office the UAW.

To begin with, The International office of the UAW in publishing its Web-site, or any other business that it might conduct for that matter, operates in complete independence of anything I may do as Mr. Fricano's treasurer. For that matter, I do not know and to the best of my recollection, have never spoken to anyone at the International level of the UAW regarding any aspect of Mr. Fricano's election campaign.

To insure that I respond as factually as possible to you regarding this matter, I am respectfully requesting an extension of at least 20 days from the original due date (September 5) up to and including September 25, 1996.

Sincerely yours,



Edward F. McKee, Treasurer
Fricano for Congress

cc: T. M. Fricano

PO Box 966 • AMHERST, NY 14226-0966 • TEL: (716) 568-9697 • FAX: (716) 568-1207



Paid for by Fricano For Congress Committee



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 6, 1996

Edward F. McKee, Treasurer
Fricano for Congress Committee
4455 Transit Rd., Suite 3B & 3C
Williamsville, NY 14221

RE: MUR 4439

Dear Mr. McKee:

This is in response to your facsimile dated September 2, 1996, which we received on the same day requesting an extension to respond to the complaint filed in the above-noted matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on September 25, 1996.

If you have any questions, please contact the Central Enforcement Docket at (202) 219-3400.

Sincerely,

A handwritten signature in black ink that reads "Erik Morrison". The signature is written in a cursive, flowing style.

Erik Morrison, Paralegal
Central Enforcement Docket

98043853967



SEP 9 9 44 AM '96

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA—UAW

STEPHEN P. YOKICH, PRESIDENT

ROY O. WYSE, SECRETARY-TREASURER

VICE PRESIDENTS: CAROLYN FORREST • JACK LASKOWSKI • ERNEST LOFTON • RICHARD SHOEMAKER

JORDAN ROSSEN, General Counsel
LAURA J. CAMPBELL
BETSEY A. ENGEL
CHARLES M. GAYNEY

CONNIE Y. HARPER
RALPH O. JONES
MICHAEL B. NICHOLSON
GEORGI-ANN OSHAGAN

Associate General Counsel

LEONARD R. PAGE
NANCY SCHIFFER
DANIEL W. SHERRICK
M. JAY WHITMAN

STEPHEN A. YOKICH
1757 'N' STREET N.W.
WASHINGTON, DC 20036
Phone (202) 826-8500
FAX (202) 293-3457

September 5, 1996

Colleen T. Sealander
Central Enforcement Docket
Federal Election Commission
999 E. Street NW
Washington, DC 20463

Re: **MUR #4439**

Dear Ms. Sealander:

We have your inquiry of August 19 in the above. The International Union, UAW respectfully asks for an extension to September 25, 1996.

I am assigned to the bargaining at Ford Motor Company, and, as you may have heard, the UAW is focusing its effort there. The contract expires September 14, 1996, which explains the need for an extension to September 25.

Sincerely,

M. Jay Whitman
M. Jay Whitman

MJW:fd
opeiu494afcio

faxed and mailed

SEP 9 1 41 PM '96
RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

9 8 0 4 3 8 5 3 9 5 8

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4439

NAME OF COUNSEL: M. Jay Whitman

FIRM: International Union, United Automobile, Aerospace and Agricultural
Implement Workers of America

ADDRESS: 8000 E. Jefferson

Detroit, Michigan 48214

TELEPHONE: (313) 926-5216

FAX: (313) 822-4844

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.

Sept 3, 1996
Date

Stephen P. Yorkin
Signature

RESPONDENT'S NAME: International Union, United Automobile, Aerospace and
Agricultural Implement Workers of America

ADDRESS: 8000 East Jefferson Avenue

Detroit, Michigan 48214

TELEPHONE: HOME ()

BUSINESS (313) 926-5201

28043853969



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 6, 1996

M. Jay Whitman, Esq.
International Union, U.A.W.
Legal Department
8000 E. Jefferson Avenue
Detroit, MI 48214

RE: MUR 4439

Dear Mr. Whitman:

This is in response to your facsimile dated September 5, 1996, which we received on the same day requesting an extension to respond to the complaint filed in the above-noted matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on September 25, 1996.

If you have any questions, please contact the Central Enforcement Docket at (202) 219-3400.

Sincerely,

A handwritten signature in dark ink, appearing to read "Colleen T. Sealander", is written over a horizontal line.

Colleen T. Sealander, Attorney
Central Enforcement Docket

98043853970



National Republican Congressional Committee

Bill Paxon, M.C.
Chairman

Maria Cino
Executive Director

ORIGINAL

September 6, 1996

BEFORE THE FEDERAL ELECTION COMMISSION

Tom Fricano For Congress Committee

The United Automobile Workers

MUR # 4439

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
SEP 6 3 03 PM '96

SUPPLEMENTAL COMPLAINT

The National Republican Congressional Committee ("N.R.C.C."), by and through its Executive Director, Maria Cino, brings this supplemental complaint pursuant to 2 U.S.C. § 437g(a)(1) (1994). The N.R.C.C. is located at 320 First Street, S.E., Washington, D.C. 20003.

I. SUMMARY

One month ago, the NRCC requested a Commission investigation into unlawful UAW solicitations on behalf of Tom Fricano's Congressional campaign made over the Internet, requests for political contributions that lacked the basic disclaimers required by federal tax and election laws. By means of this supplemental complaint, the NRCC provides the Commission with further information confirming and establishing that:

1. In addition to the UAW Internet cite, unlawful UAW solicitations on Fricano's behalf were mailed to 1,293,520 households (including both union members and the general public) as part of the printed Solidarity magazine's June/July and August issues;
2. These solicitations also lacked basic IRS and FEC disclaimers;
3. UAW express advocacy on Mr. Fricano's behalf -- including these solicitations -- were funded with general treasury funds pursuant to the UAW International Constitution.

320 First Street, S.E.
Washington, D.C. 20003
(202) 479-7020

II. FACTS & DISCUSSION

I. The UAW's Solicitations of Contributions on Behalf of Fricano for Congress through the Union's Solidarity Magazine Lack I.R.S. & F.E.C.-Mandated Disclaimer Notifications.

The NRCC has already established that Thomas Fricano is director of the United Auto Workers' ("UAW") Region 9 based in Cheektowaga, New York who is presently running for U.S. Congress in the 27th district of New York.

The UAW distributes Solidarity magazine each month to 1,293,500 households or locations, both to Union Members and, upon information and belief, to the general public. *See Solidarity Magazine Circulation Statement, August, 1996 at 4 (Exh. 3).* ***There is no doubt that this magazine was sent to more than just union members -- the copy attached as an exhibit was mailed to Mr. Fricano's electoral opponent -- Congressman Bill Paxton -- at his Washington, D.C. congressional office!*** This magazine is funded through union general treasury funds. Specifically, the UAW Constitution provides that five cents from each UAW member's "monthly per capita tax" (i.e. dues):

shall be expended only for publication of "Solidarity," the official publication of the International Union.

See UAW June 1995 Constitution, Art. 16, § 14(1) (Exh. 4).

In both the June/July and the August issues of Solidarity magazine, the UAW included a full-page advertisement on Tom Fricano's behalf entitled "UAW Member Runs for Congress." These advertisements included campaign pictures, glowing endorsements of Mr. Fricano's purported values and scurrilous attacks upon Fricano's electoral opponent. The June/July issue also includes the following solicitation:

Contributions to help Fricano's campaign are urgently needed,
and can be sent to Tom Fricano for Congress, Box 966,
Amherst, N.Y. 14226-0966.

See UAW Solidarity Magazine, June/July (Exh. 1) and August issue (Exh. 2). It is unlawful for the UAW to use compelled union dues for partisan political purposes. *See infra.*

Nothing in the entire Solidarity magazine, let alone on the page in question, identifies:

- (1) Who paid for the solicitation. **REQUIRED** by 2 U.S.C. § 441d(a).
- (2) Whether the Fricano campaign authorized the solicitation. **REQUIRED** by 2 U.S.C. § 441d(a).

- 280438539/3
- (3) Requesting contributors' names, addresses, occupation and employer as is **REQUIRED** by 2 U.S.C. § 432(i).
 - (4) Explaining that contributions are not tax deductible. **REQUIRED** by 26 U.S.C. § 6113 (1996). *Section 6113 of the Internal Revenue Code requires political committees whose gross annual receipts normally exceed \$100,000 to include a special notice on their solicitations to inform solicitees that contributions are NOT tax deductible. Failure to disclose that contributions are nondeductible results in a mandatory penalty of \$1,000 for each day on which such a failure occurred. 26 U.S.C. § 6710 (1996).*

2. **The UAW's Solicitations of Contributions on Behalf of Tom Fricano for Congress through Solidarity Magazine Constitute Unlawful Contributions from a Prohibited Source**

It is unlawful for labor unions to make any expenditures in connection with federal elections. 2 U.S.C. § 441b(a) (1996). Illegal labor union expenditures include all moneys spent on communications that solicit funds and/or constitute "express advocacy." *See FEC v. Massachusetts Citizens For Life*, 479 U.S. 238, 249 (1986). Solicitations of contributions for a campaign, through a magazine with a circulation of 1,293,520 households that extends beyond a labor union's restricted class, may not be funded with general treasury funds. *See 11 C.F.R. § 114.4*. Such solicitations require clear and conspicuous disclaimers under FEC and IRS law. 2 U.S.C. § 441d(a). It was and remains unlawful for the UAW to make (and for Fricano to accept) these contribution from a labor union. 2 U.S.C. § 441b(a).

3. **It Is Unlawful for the UAW to Use Compelled Union Dues for Partisan Political Purposes.**

Labor unions cannot make political contributions, and even their PACs cannot expend funds that were involuntarily contributed. According to federal law, it is unlawful for a labor union:

to make a contribution or expenditure by utilizing money or anything of value secured by . . . dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment

2 U.S.C. § 441b(b)(3)(A) (1994).

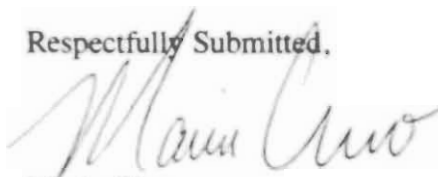
By taking general treasury funds -- comprising mandatory dues levied on workers of varying political beliefs -- and spending these moneys on partisan political efforts, the UAW violates § 441b(b)(3)(A). As the NRCC continues to recall, Thomas Jefferson observed that "to compel a man to furnish contributions of money for the propagation of opinions which he

disbelieves and abhors is sinful and tyrannical." The UAW is doing exactly what Mr. Jefferson found so unconscionable. Since FEC law similarly rejects such expenditures, the UAW must stop making (and Fricano must cease accepting) such unlawful contributions.

IV. PRAYER FOR RELIEF

The Commission should investigate the Tom Fricano for Congress Campaign and its improper acceptance of labor union contributions and solicitations on the campaign's behalf, examining the facts both in the present complaint and as already provided to the Commission. All necessary and appropriate measures should be taken pursuant to 2 U.S.C. § 437g(d)(1) to remedy these unlawful activities and to deter future illegality.

Respectfully Submitted,



Maria Cino
Executive Director

District of Columbia

Signed and sworn to before me this 6th day of Sept., 1996.



NOTARY PUBLIC

My commission expires: _____

M. D. Acron
Notary Public, District of Columbia
My Commission Expires July 14, 1997

UAW Solidarity June - July 1996

UAW
Solidarity
June - July 1996

Hicks never wavered. To keep others from getting sid to people. "We are at- years right now. They can time. So what do we real- ize?" Workers proved to be in the company's illegal

UAW
Solidarity
June - July 1996

UAW
Solidarity
June - July 1996

In everything that affected us as workers—our salaries, benefits, and workplace rules," said *Advocate* reporter Dan Magnan.

The *Advocate* is the second daily newspaper to be represented by the UAW. The first was the *Evening News* in Sault Ste. Marie, Michigan.

INING '96

Talks Open in Detroit

ing talks on new con- 400,000 UAW at Big 3 automakers une. resident Stephen P. Yo- Vice-President Ernest a rank-and-file bargain- Ford June 10. Yokich, ent Jack Laskowski, and /ster members opened 1, and on June 12, Yo- JAW Vice-President oemaker and rank-and- ore opened negotiations

all three chains are ex- ous on job security, fol- goals set at the UAW's rgaining convention in g those goals are end- racting-out of work that bers have traditionally

performed or could perform; cop- ing excessive overtime and reduc- ing worktime, and, in general, chal- lenging corporate "downsizing" which could threaten UAW mem- bers' security.

PLANT CLOSINGS: Other union goals include seeking a mor- atorium on plant closings, an issue that was put into sharp focus earlier this spring when GM announced it was considering selling one Michi- gan plant, closing a plant in Albany, Georgia, and seeking a joint venture partner at another Michigan facility. Such plans are "unwarranted, dis- ruptive, and damaging to the UAW- GM relationship," Shoemaker said, "and no one should underestimate our determination to address these matters on an equitable basis."



UAW RETIREES continue to provide vital support to some 2,100 Detroit newspaper workers who have been on strike since July 13 of last year. Re- tired union members from the Fairview area in eastern Michigan have contributed two pick-up loads of non-perishable food—37 cases in all— plus \$750 since mid-December, says Chapter Chairman Bob Petree. UAW Local 7 retirees (above) demonstrated their own support recently.

PRINCIPAL OF THE YEAR: UAW Local 2150 awarded its "Principal of the Year" award May 20 to Dr. Darrell Clay, principal of Millwood Middle School in Kalamazoo, Michigan. The UAW represents all public- school principals in the Kalamazoo School District. Among Dr. Clay's achievements has been helping to secure a \$150,000 Kellogg Foundation grant for a pilot program in technology, helping school administrators work on field projects to secure and maintain their certification, and working with parents, staff, and volunteers to improve achievements for the students.

IN BRIEF: UAW will represent 250 clerical, technical, and professional workers at Mercy College in New York, following a National Labor Re- lations Board ruling. . . . Winners in the 1996 International UAW Bow- ling Tournament are Local 292, women's team; Local 362, men's team; Karen Cook, Local 1853, women's singles; and Randy Birdwell, Local 735, men's singles.

CAMPAIGN '96

A Worker Runs For Congress

Tom Fricano, a GM worker who rose through the union's ranks to become director of UAW Region 9, is running for Congress against a New York Republican with a zero voting record on worker issues.

Incumbent Bill Paxon voted to cut Medicare, to empower "compa- ny" unions, and against the banning of striker replacements. The *Al- manac of American Politics* reports that after he promised \$10,000 in campaign contributions to state senate Republicans, they redrew district boundaries to make it strongly Republican. Paxon, an extreme right- winger, heads the Republican Cam- paign Committee and has raised \$60 million from bankers and wealthy industrialists to put more right- wingers into Congress.

That doesn't scare Fricano, who's

been a strong UAW member since being hired as an apprentice electri- cian at the Chevrolet Forge plant in Tonawanda, New York in 1959.

A victory is "double," he told a campaign kickoff, because Repub- licans and Democrats alike are baring, and will respond to a can- didate who challenges Paxon on is- sues like cuts in Medicare and tax breaks for the wealthy.

UAW President Stephen P. Yo- kich emphasizes that a Fricano vic- tory will be a victory for workers everywhere who are being hurt by Republican economic and labor policies.

Contributions to help Fricano's campaign are urgently needed, and can be sent to: Tom Fricano for Congress, Box 966, Amherst, NY 14226-0966.

UAW MEMBER ANS FOR CONGRESS

EXHIBIT 2



PHOTO BY MICHAEL GOODMAN

A worker may be needed for Washington this fall. Tom Fricano, a UAW member since 1959 and now the director of UAW Region 9, is running against Bill Paxton, the Republican Congressman who's been called the "architect of the Gingrich Revolution."

Paxton was the only member of Congress from New York State to vote "no" on raising the minimum wage. He voted for the Republican plan to let businesses raid their employee pension funds. His overall voting record on worker issues is zero. And now, he's leading the charge to get radio and TV stations to refuse union ads exposing the Republicans' anti-worker record.

While Paxton's been jetting around the country raising money as chair of the GOP Congressional Campaign Committee, Tom Fricano's been criss-crossing his western New York district to meet with workers, farmers, and senior citizens.

"No matter where I go in the district—whether it's on farms, in small towns, or in the suburbs—everyone's concerned about job security and an adequate income," Fricano says.

Fricano warns that Republican economic policies are costing thousands of jobs across America. In his own district, the Melton Shirt Co. recently announced it would close its Batavia, N.Y. plant and lay off 60 workers, as company officials bragged that workers overseas would make shirts for 40 cents an hour. Two hundred more jobs are at risk at the M. Wile Co. in Dunkirk, which also plans to close.

In Amherst, N.Y., Fricano said he recently met a man in his seventies, retired for 14 years, who told how he had to take a minimum-wage job to supplement his Social Security and meager pension.

Fricano says he knows the problems of workers first-hand. "I started working on a farm at the age of 12," he says, "and I gave up high-school sports in my senior year in order to work at a grocery store to earn college tuition."

Fricano's opponent, on the other hand, is a man of wealth who's been a Republican politician since he was 23 years old. Rep. Paxton has raised over \$60 million for GOP Congressional candidates from bankers, corporations, and wealthy individuals. And he recently bought a \$380,000 home near Washington, D.C. with just 5 percent down.

While Fricano says he won't be able to match the millions of dollars his opponent is amassing, he hopes that workers across the country will help his campaign to send a worker to Washington.

Voluntary campaign donations and messages of support can be sent to: Tom Fricano for Congress, Box 966, Amherst, N.Y. 14226-0966.

"I want my election to be a victory for workers, farmers, seniors, and others—not just in my western New York district—but for all Americans who believe in fairness," Fricano says. "We need a worker's voice in Washington."



5000734537 6965
 02-023830
 L WILLIAM FRIEDMAN
 1214 CONRAD RD TH
 WASHINGTON DC 20515-0001

←
 ←
 NON-MEMBER
 Addressee

SION PREDATORS

Republicans retain control of Congress this
ber and win the White House, the corporations
ain try to raid pension funds.

11

AL INSECURITY

Wingers are trying to privatize America's most
ed social program. Guess who'll be the losers.

14

YOUNG & THE RESTLESS

More than a 1,500 students and young workers
ending part of their summer helping spread
on message as volunteers in "Union Summer."

17

MPIC TRAILS

Part to finish, UAW members were involved in
mpics.

21

Letterbox 4 Frontlines 6 The Union This Month 18 Thi
g Life 23 Point of View 24 Labor Notebook 25 World o
5 Workers of the World, Relax! 26 Good & Welfare 27

Solidarity



SPS 0740610) is published monthly with combined issues in Jan.-Feb. and June-July by th
l Union, UAW, 8000 E. Jefferson, Detroit, MI 48214. Circulation: (313) 926-5373
(313) 926-5291. Internet: 71112.363@CompuServe.com; Web site: <http://www.uaw.org>
\$60c to members included in dues). Vol. 39, No. 8, August, 1996. ISSN 0164 8567
postage paid at Detroit, Michigan, and additional mailing office. Postmaster: Send address
Solidarity, 8000 E. Jefferson, Detroit, MI 48214. Printed in USA.

Stephen P. Yalich, Secretary-Treasurer, Roy Wyse, Vice-Presidents: Carolyn Forrest, Jac
Ernest Lofton, Richard Shoemaker. Regional Directors: 1-Bob Lent, 1A-Bob King, 1C
1D-George Andros, 2-Warren Davis, 2B-Jack Sizemore, 3-Ron Gettelfinger, 4-Pau
m Wells, 8-Bobby Lee Thompson, 9-Tom Fricano, 9A-Phil Wheeler.

Relations & Publications Dept. Director, Frank Joyce, Ass't. Director, Dave Elsila, Bobbi
ncy Brigham, Michael Funke, John Hammond, Jennifer John, Paul Krell, Karl Mantyla, Re
ck Olson, Interns: Diane Wyszczynski, Raja Mishra, Maria Stephens, Pam Whitlow Varm
e Newspaper Guild. Clerical staff: Sandie Pack, Norma Bogovich, Dawn Bucci, Kare
ammie Miller, Chris Neal, Shelly Restivo, members, OPEIU.

Elsila. Assistant Editor: Michael Funke. Publications Interns: Raja Mishra, Mari
design consultant: Barbara Barefield, Graphics Artists' Guild member. Cover illustration
Whitehead. Circulation this issue: 1,293,520.

2 8 0 4 3 8 5 3 9 7 8

Art. 16

1 our good standing in the Local Union shall not be
2 broken by such service, provided s/he reports to
3 the Local Union at the time of entering such ser-
4 vice or thereafter furnishes the necessary proof of
5 military service. S/He shall become subject to the
6 provisions of this Section at the end of such mili-
7 tary service.

8 **Section 14.** The International Union shall set
9 aside all sums remitted by Local Unions as Union
10 Strike Insurance Fund dues and the funds result-
11 ing shall be a special fund to be known as the In-
12 ternational Strike Insurance Fund, to be drawn upon
13 exclusively for the purposes of (1) aiding Local
14 Unions engaged in authorized strikes and in cases
15 of lock outs, and (2) assisting by donations or loans
16 other International Unions and non-affiliated Lo-
17 cal Unions similarly engaged, and (3) meeting fi-
18 nancial obligations or expenditures which this In-
19 ternational Union or its affiliated Local Unions
20 incur as a result of authorized strikes or in cases of
21 lockouts, and then only by two-thirds (2/3) vote of
22 the International Executive Board. An amount, not
23 in excess of seventy-five percent (75%) of the in-
24 terest and dividends received by the International
25 Strike Insurance Fund, may be set aside as the Or-
26 ganization, Education and Communication Fund
27 to be expended as authorized by the International
28 Executive Board for such purposes. **On June 15,**
29 **1995, the International Executive Board shall**
30 **make a one-time transfer of fifty million dol-**
31 **lars (\$50 million) from the International Strike**
32 **Insurance Fund to the General Fund of the In-**
33 **ternational Union.**

34 From the remainder of each member's monthly
35 per capita tax, the International Union shall set
36 aside:

- 37 1. Five cents (.05) which shall be expended
38 only for publication of "Solidarity," the
39 official publication of the International
40 Union or of any successor official publi-
41 cation.
42 2. One cent (.01) to the Civil Rights Fund to
43 be expended only for the support and pro-
44 motion of the programs and activities of
45 the International Union in support of fair
46 employment practices and in opposition
47 to all discriminatory practices in employ-
48 ment.
49 3. Three cents (.03) as the International

Art. 16

1 Union Education Fund to be expended
2 only for the programs and activities of the
3 International Union Education Depart-
4 ment.

- 5 4. One cent (.01) as the International Union
6 Recreation Fund which fund shall be ap-
7 portioned to each region on a per capita
8 basis.
9 5. Five cents (.05) as the Special Citizen-
10 ship Fund to be used for the purpose of
11 strengthening democracy by encourag-
12 ing members and citizens generally to
13 register and vote in community, state and
14 national elections and to carry on organi-
15 zational and educational programs di-
16 rected toward the achievement of an ever
17 higher understanding of citizenship re-
18 sponsibility and the need for active par-
19 ticipation in the affairs of a free and demo-
20 cratic society.
21 6. One cent (.01) for the International Union
22 Retired Workers Fund, which one cent
23 (.01) shall be used only to promote and
24 support programs benefiting retired mem-
25 bers including such programs of the In-
26 ternational Union relating to retired mem-
27 bers as may be adopted from time to time,
28 and to finance the operation of the Inter-
29 national Union Retired Workers Depart-
30 ment.

31 **Section 15.** At least once each month the Inter-
32 national Secretary-Treasurer shall advise all Local
33 Unions of the exact Strike Fund balance.

34 **Section 16.** All per capita taxes and all other
35 monies collected for the International Union shall
36 be transmitted to the International Secretary-Trea-
37 surer by the twentieth of each month following
38 collection. All such per capita taxes and other mon-
39 ies are strictly the property of the International
40 Union and in no case shall any part thereof be used
41 by Local Unions, except upon permission of the
42 International Executive Board.

43 **Section 17.** The International Secretary-Trea-
44 surer will issue the official receipt of the Office of
45 Secretary-Treasurer for all monies collected.

46 **Section 18.** Any member who has not worked
47 forty (40) hours by reason of not having been
48 scheduled to work forty (40) hours, or received



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 13, 1996

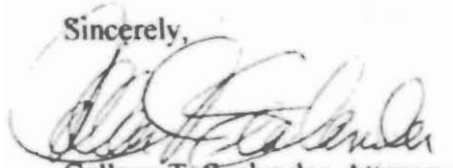
Maria Cino, Executive Director
National Republican Congressional Committee
320 First Street, SE
Washington, DC 20003

RE: MUR 4439

Dear Ms. Cino:

This letter acknowledges receipt on September 6, 1996, of the supplement to the complaint you filed on August 13, 1996. The respondents will be sent copies of the supplement. You will be notified as soon as the Federal Election Commission takes final action on your complaint.

Sincerely,



Colleen T. Sealander, Attorney
Central Enforcement Docket

280438539/9



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 13, 1996

Edward F. McKee, Treasurer
Tom Fricano for Congress
4455 Transit Road, Suite 3B & 3C
Williamsville, NY 14221

RE: MUR 4439

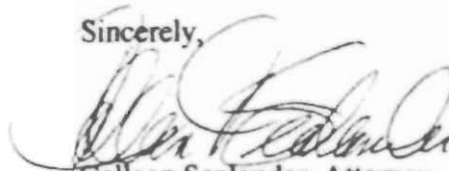
Dear Mr. McKee:

On August 19, 1996, Tom Fricano for Congress and you, as treasurer, were notified that the Federal Election Commission received a complaint from Maria Cino alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time you were given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On September 6, 1996, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information

If you have any questions, please contact a member of the Central Enforcement Docket at (202) 219-3400.

Sincerely,



Colleen Sealander, Attorney
Central Enforcement Docket

Enclosure

cc: Thomas M. Fricano

28043853930



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 13, 1996

Mr. M. Jay Whitman, Esq.
International Union, United Automobile,
Aerospace, and Agricultural Implement
Workers of America (UAW)
8000 E. Jefferson
Detroit, MI 48214

RE: MUR 4439

International Union, United Automobile,
Aerospace and Agricultural Implement
Workers of America (UAW)

Dear Mr. Whitman:

On August 19, 1996, the UAW was notified that the Federal Election Commission received a complaint from Maria Cino alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time, the UAW was given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On September 6, 1996, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information

If you have any questions, please contact a member of the Central Enforcement Docket at (202) 219-3400.

Sincerely,

Colleen Sealander, Attorney
Central Enforcement Docket

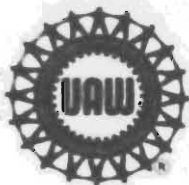
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RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

Solidarity House

8000 EAST JEFFERSON AVENUE
DETROIT, MICHIGAN 48214
PHONE (313) 926-5000

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INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA—UAW

STEPHEN P. YOKICH, PRESIDENT

ROY O. WYSE, SECRETARY-TREASURER

VICE-PRESIDENTS: CAROLYN FORREST • JACK LASKOWSKI • ERNEST LOFTON • RICHARD SHOEMAKER

JORDAN ROSSEN, General Counsel
LAURA J. CAMPBELL
BETSEY A. ENGEL
CHARLES M. GAYNEY

CONNYE Y. HARPER
RALPH O. JONES
MICHAEL B. NICHOLSON
GEORGI-ANN OSHAGAN

Associate General Counsel

LEONARD R. PAGE
NANCY SCHIFFER
DANIEL W. SHERRICK
M. JAY WHITMAN

STEPHEN A. YOKICH
1757 'N' STREET, N.W.
WASHINGTON, DC 20036
Phone (202) 828-8500
FAX (202) 293-3457

September 10, 1996

Colleen T. Sealander, Esq.
Central Enforcement Docket
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Re: MUR #4439

Dear Ms. Sealander:

This is the response of the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) to the complaint of the National Republican Congressional Committee (NRCC) in this matter.

In the 27th Congressional District of New York, the Democratic candidate is Tom Fricano, and the Republican candidate is Bill Paxon. Fricano is a GM hourly worker, who was elected and serves as the Director of Region 9 of his union, the UAW. Paxon is the incumbent, and Chairman of the NRCC.

The UAW maintains a site on the World Wide Web ("Web" or "WWW") on the Internet. The gravamen of the NRCC's complaint here is that the "Web" edition of the UAW's magazine *SOLIDARITY*, for the June/July issue, which included a solicitation to mail voluntary donations to Fricano's campaign, and the address of his Committee.

Attached is the AFFIDAVIT OF NANCY J. BRIGHAM, the UAW's "Web Master", which recites, on personal knowledge, the actual facts in this matter. The Commission will see that it gives a full, detailed explanation.

The story in question is entitled "A Worker Runs for Congress". It tells the story of a UAW member, Tom Fricano, running for Congress. The story was initially written,

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COUNSEL

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not for cyberspace, but for the UAW's decades-old magazine SOLIDARITY. It has always been a membership communication, mailed to the home address of the UAW's active and retired membership. (§5 & §9)

SOLIDARITY is produced by other members of the UAW's Public Relations Department. More recently, an *abridged* version of SOLIDARITY has been published electronically, on this Web site. Brigham routinely received printed proofs of the magazine, and then edits those proofs, making abridgments of two sorts:

... (a) changes needed to present the material as a workable, on-line presentation, as distinct from a print presentation; and (b) changes needed because the abridged Web version of SOLIDARITY is available, not only to the UAW membership, but also to others among the general public. [§8]

This latter group of edits includes changes needed to comply with the FECA.

That done, Brigham sent the abridged SOLIDARITY, shown on the edited proofs, together with the raw computer files, to a private firm, Passport, Inc., in Sterling Heights, Michigan. The UAW had contracted with Passport to implement the edits, then convert the edited files to HTML format, and post the abridged edition on the Web site. (§11) In Brigham's experience, the Passport employee who did our work had been reliable. As each job was done, Passport discarded the proofs, and returned the disk for reuse. (§12)

On the story in question, Brigham *deleted entirely* the last paragraph of the print story, complained of here, reciting Fricano's need for contributions and the address of his Committee. After her edits to the proof, the story that remained "contained no solicitation of any sort for the Fricano campaign, nor any advocacy of his candidacy." (§10) It simply told the story of a worker running, and reported the issues.

Unknown to Brigham, or anyone else at the UAW, Passport did *not* follow Brigham's written directions. Instead, a disgruntled Passport employee, leaving the firm, failed to implement the edits, left the print story intact, and put it on the Web site. After a press inquiry, this failure was first discovered on August 15th. The *same* afternoon, the story was taken off the Web site. Passport is no longer doing the UAW's work. Brigham has implemented additional double-checks to insure that her edits are followed. (§18)

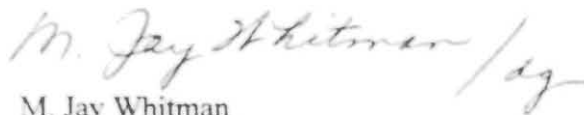
Although Brigham's regular work took her in and around the Web site, she did not discover the error earlier -- for perfectly logical reasons. As a minor story, it is buried three (3) levels, and a substantial scroll, down in the Web site. (§14) The NRCC doubtless found it by using a software "worm", specifically targeting "Fricano" and "UAW". This is *not* how a *normal* user from the general public would deal with the Web site. (§15)

We respectfully submit that this episode does not present any occasion for FEC action, remedial or otherwise. It is just another disappointing, but ultimately *uninteresting* example of a private contractor, in this case an *expert* contractor, not doing the job it was hired to do. Brigham gave explicit, written instructions on the edited proof. Passport was obligated to follow them, and did not. In the free enterprise system, such things sometimes happen. Passport has since suffered the economic fate prescribed by the market. New safeguards are in place.

The balance of the NRCC charge proceeds on the assumption that the Web site was intended to be in the business of campaign solicitation for Fricano, adducing the need for the §441d disclosures. As the site was never intended to be in that business, those allegations are moot. They are not "susceptible of repetition and likely to recur."

For these reasons, the UAW respectfully urges the Commission to decline to take further action in this matter.

Respectfully Submitted,



M. Jay Whitman
Attorney for Int'l Union, UAW

encl.

SEP 11 2 29 PM '96

BEFORE THE
FEDERAL ELECTION COMMISSION

N.R.C.C.

v.

TOM FRICANO FOR CONGRESS COMMITTEE

and

INTERNATIONAL UNION, UNITED AUTOMOBILE,
AEROSPACE AND AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA (UAW)

MUR #4439

AFFIDAVIT OF NANCY J. BRIGHAM

STATE OF MICHIGAN

) ss.

COUNTY OF WAYNE

Being first duly sworn, Nancy J. Brigham says and deposes as follows:

1. My name is Nancy J. Brigham. My office address is 8000 East Jefferson Ave., Detroit, Michigan 48214. I make this affidavit on personal knowledge, or from business records under my control.

2. I am a senior member of the staff of the Public Relations & Publications Department of the International Union, UAW. I joined that staff in March, 1978.

3. I serve as the Electronic Communications Specialist for the International Union, UAW. Before assuming these duties, I served in various other journalistic and public relations roles in the Department.

4. My current duties include responsibility for the UAW's sites on the World Wide Web (hereafter, "WWW" or "Web"). I design, or supervise the design of the Web sites; negotiate and administer contracts with private firms that service those sites; select

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material and graphics to be included; edit that material; submit the edited material to private firms for conversion to electronic format; program original material in HTML for posting; and supervise the performance of those private firms under their contracts, as well as clerical workers and others who may, from time to time, work on the Web sites. In this, I serve as (what is commonly known as) "Web Master" of the UAW sites.

5. The UAW publishes SOLIDARITY[®] magazine ten (10) times a year. It is prepared and published by others members of our Department. This publication is written for, and sent to UAW members and their families. It is a membership communication.

6. One of the features of our Web site at the URL "<http://www.uaw.org>" is an abridged, on-line version of SOLIDARITY magazine.

7. As new issues of SOLIDARITY are published, I receive a printed proof of the magazine. I then personally edit the proof, making the deletions and changes need to arrive at the abridged version to be put on the Web site.

8. When editing the SOLIDARITY proofs, I pay particular attention to two areas: (a) changes needed to present the material as a workable, on-line presentation, as distinct from a print presentation; and (b) changes needed because the abridged Web version of SOLIDARITY is available, not only to the UAW membership, but also to others among the general public. This last group of edits includes changes, if any, needed to meet the requirements of the Federal Election Campaign Act (FECA).

9. The NRCC complains here about the Web version of the article entitled "A Worker Runs for Congress". This article originated in the printed June/July, 1996, edi-

tion of SOLIDARITY. In the printed edition, directed only to the UAW's membership, the article ended with:

Contributions to help Fricano's campaign are urgently needed, and can be sent to: Tom Fricano for Congress, Box 966, Amherst, NY 14226-0966.

10. In the normal course of my duties, very late in June, 1996, I received the printed proof of the June/July edition of SOLIDARITY. On reaching this particular story, I edited it so as to delete the quoted paragraph *completely*. The story that remained, after my edits, contained no solicitation of any sort for the Fricano campaign, nor any advocacy of his candidacy. It simply told the story of a worker running for Congress, and reported the issues.

11. The UAW had contracted with a private firm, Passport, Inc., of Sterling Heights, Michigan, to put SOLIDARITY on line: to implement my edits, then perform conversion of the abridged edition of SOLIDARITY to the HTML format, and post the abridged edition on our Web site.

12. Following my normal practice, I sent the edited paper proof of the June/July edition of SOLIDARITY, along with the unedited computer files, to Passport. The individual who performed this work at Passport had, in my experience, been reliable in implementing my edits. As each job was finished, Passport discarded the edited proof, and returned my disk for reuse.

13. The June/July electronic edition of SOLIDARITY was posted on the UAW site on or about July 16, 1996. Subsequent to that posting, I worked in the Web site, but no errors by Passport on this job came to my attention.

14. The story in question is, in fact, difficult to locate on the UAW's site. From the UAW's Home Page, one must first click on the general SOLIDARITY icon. This links to a page listing the editions then available on the site. From there, one must click on the June/July 1996 edition. That listing does *not* list this story, but only major stories. Like most minor stories, this one is lumped under a larger headline, in this case "Around the Union." Once there, one must scroll to the very end of that section to find the story. That is, the story is buried three (3) levels, and a substantial scroll, down in the UAW's Web site.

15. The only other way to find this story is to send a Web "worm" or other software search engine *specifically* after "Fricano" and "UAW". That is, it may be found by someone looking *specifically* for it, as distinct from the normal user of the WWW.

16. On August 15, 1996, our Department learned of an inquiry from a member of the public press about the NRCC's allegations. We immediately checked the Web site, and were surprised to learn that my edits of that story had, in fact, *not* been implemented by Passport, despite my written instructions on the printed proof. Neither I, nor anyone else in my Department, knew of Passport's failure until that date. We removed the story from the site that same afternoon. Our software does not track how many, if any, users visited that particular story.

17. For several reasons, the UAW ceased using Passport to work on the Web sites. We have contracted with another private firm. I also learned that the individual who was performing UAW work at Passport at that time, being dissatisfied with her em-

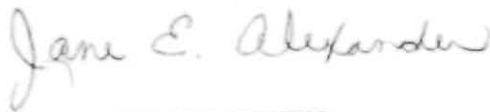
ployer, has quit Passport. Passport advises me, and I believe, that the June/July edition of SOLIDARITY was one of the last, if not the last, thing she worked on for Passport.

18. After this episode, I instituted double-check procedures to insure that my edits, and other instructions, are implemented *before* any material is, in fact, posted on the Web site.

Further affiant saith not.


Nancy J. Brigham

Subscribed & sworn to before me,
a notary public, Oakland County, Michigan,
acting in Wayne County, Michigan,
this 6th day of September, 1996.



JANE E. ALEXANDER
Notary Public, Oakland County, MI
My Commission Expires Oct. 19, 1998



September 24, 1996

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

Colleen T. Sealander, Esq.
Central Enforcement Docket
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Re: MUR #4439

Dear Ms. Sealander:

This letter will respond to the above-captioned complaint filed by the National Republican Congressional Committee [NRCC].

We have received a copy of the response filed by the international office of the UAW. As you can see from that submission, any reference to fundraising that appeared on the Web site was the result of inadvertence, indeed the result of the private contractor failing to follow the directions of the UAW employee who handles these matters.

Neither myself nor Tom Fricano nor any person associated with our campaign had anything to do with or had any knowledge of any material on the UAW Web site. Accordingly, there has been no violation by Fricano for Congress, myself, or anyone associated with our campaign.

We would also note, parenthetically, that it would further appear that there was no violation of the statute or regulations, inasmuch as the federal election law and regulations only prohibit "expenditures" of money. It would appear that the UAW has maintained its Web site for some time and there was no separate "expenditure" for the matters objected to by the NRCC.

Based on all the foregoing considerations, it would appear that no further action is warranted in this matter, and we would ask you to dismiss the complaint.

Very truly yours,

A handwritten signature in cursive script that reads "Edward F. McKee".

Edward F. McKee, Treasurer
Fricano for Congress

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INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA—UAW

STEPHEN P. YOKICH, PRESIDENT

ROY O. WYSE, SECRETARY-TREASURER

VICE-PRESIDENTS: CAROLYN FORREST • JACK LASKOWSKI • ERNEST LOFTON • RICHARD SHOEMAKER

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Associate General Counsel

LEONARD R. PAGE
NANCY SCHIFFER
DANIEL W. SHERRICK
M. JAY WHITMAN

STEPHEN A. YOKICH
1757 'N' STREET, N.W.
WASHINGTON, DC 20036
Phone (202) 828-8500
FAX (202) 293-3457

VIA FAX AND U.S. MAIL

October 1, 1996

Colleen Sealander, Attorney
Central Enforcement Docket
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Re: MUR #4439 -- Supplemental

Dear Ms. Sealander:

We've previously filed our response to the first NRCC complaint in this matter. We have your letter of September 13th, enclosing a Supplemental Complaint, and asking our response. Our response would ordinarily be due Wednesday, October 2nd.

We respectfully request an extension to Thursday, October 10th, within which to respond to the additional matters. My investigation into the relevant facts is taking longer than anticipated.

Sincerely,

M. Jay Whitman
M. Jay Whitman

MJW:nm
opeiu494

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 10, 1997

Edward F. McKee, Treasurer
Fricano for Congress
5182 Eastbrooke Place
Williamsville, NY 14221

RE: MUR 4439

Dear Mr. McKee:

You have requested that the Federal Election Commission permit the Fricano for Congress Committee ("Committee") to terminate pursuant to 2 U.S.C. § 433(d) and Section 102.3 of the Commission's Regulations. Because of the ongoing enforcement matter involving your Committee, this request has been denied. Therefore, you are reminded that the Committee must continue to file all the required reports with the Commission until such time as the enforcement matter has been closed as to the Committee.

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

Sincerely,

Mary L. Taksar

Mary L. Taksar
Attorney

cc: Reports Analysis Division

28043853992

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
)
)
)

ENFORCEMENT PRIORITY

May 10 10 01 AM '97

SENSITIVE

GENERAL COUNSEL'S REPORT

I. INTRODUCTION.

The cases listed below have been identified as either stale or of low priority based upon evaluation under the Enforcement Priority System (EPS). This report is submitted to recommend that the Commission no longer pursue these cases.

This is the first Enforcement Priority Report that reflects the impact of the 1996 election cycle cases on the Commission's enforcement workload. We have identified cases that are stale which are recommended for dismissal at this time. This is the highest number of cases identified as stale in a single report, and the highest number of stale cases recommended for closure at one time, since the inception of EPS in 1993.

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II. CASES RECOMMENDED FOR CLOSURE.

A. Cases Not Warranting Further Action Relative to Other Cases Pending Before the Commission

EPS was created to identify pending cases which, due to the lower priority of the issues raised in the matters relative to others presently pending before the Commission, do not warrant further expenditure of resources. Central Enforcement Docket (CED) evaluates each incoming matter using Commission-approved criteria, resulting in a numerical rating for each case.

Closing such cases permits the Commission to focus its limited resources on more important cases presently pending before it. Based upon this review, we have identified cases that do not warrant further action relative to other pending matters.³ Attachment 1 to this report contains summaries of each case, the EPS rating, and the factors leading to assignment of a low priority and recommendation not to further pursue the matter.

B. Stale Cases

Effective enforcement relies upon the timely pursuit of complaints and referrals to ensure compliance with the law. Investigations concerning activity more remote in time usually require a greater commitment of resources, primarily due to the fact that the evidence of such activity becomes more difficult to develop as it ages. Focusing investigative efforts on more recent and more significant activity also has a more positive effect on the electoral process and the regulated community. In recognition of this fact, EPS provides us with the

³ These cases are: RAD 97L-10 (*Citizens for Randy Borow*); RAD 97L-16 (*Republican State Central Committee of South Dakota*); Pre-MUR 347 (*Producers Lloyds Insurance Company*); Pre-MUR 348 (*Peoples National Bank of Commerce*); Pre-MUR 349 (*Trump Plaza*); Pre-MUR 350 (*Citibank, N.A.*); Pre-MUR 355 (*Feingold Senate Committee*); MUR 4494 (*Georgianna Lincoln*);

MUR 4586 (*Friends of Zach Wamp*); MUR 4590 (*Oklahoma Education Association*); MUR 4600 (*San Diego Police Officers Assoc.*); MUR 4612 (*Teresa Doggett for Congress*); MUR 4615 (*Catholic Democrats for Christian Values*); MUR 4616 (*American Legislative Exchange Council*); MUR 4620 (*Eastern Connecticut Chamber of Commerce*); MUR 4622 (*Telles for Mayor*); MUR 4628 (*Gutknecht for Congress*); MUR 4629 (*Janice Schakowsky*); MUR 4636 (*IBEW Local 505*); MUR 4637 (*Dettman for Congress*); MUR 4639 (*Larson for Congress*); MUR 4641 (*Becker for Congress*); MUR 4644 (*Detroit City Council*); MUR 4651 (*Mike Ryan*); MUR 4653 (*Pritzker for Congress*); MUR 4656 (*H. Carroll for Congress*); and MUR 4657 (*Buchanan for President*).

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means to identify those cases which, though earning a higher rating when received, remained unassigned for a significant period due to a lack of staff resources for effective investigation. The utility of commencing an investigation declines as these cases age, until they reach a point when activation of a case would not be an efficient use of the Commission's resources.

We have identified cases that have remained on the Central Enforcement Docket for a sufficient period of time to render them stale. We are recommending the closure of cases based on staleness.⁶

* These cases are: MUR 4283 (*Chenoweth for Congress*); MUR 4341 (*Juan Soliz for Congress*); MUR 4402 (*U.S. Representative Helen Chenoweth*); MUR 4435 (*Lincoln for Congress*); MUR 4439 (*UAW*); MUR 4442 (*Lipinski for Congress*); MUR 4444 (*Roberts for Congress*); MUR 4445 (*Randy Tate for Congress*); MUR 4446 (*Clinton/Gore '96 Primary*); MUR 4447 (*Random House, Inc.*); MUR 4449 (*Clinton Administration*); MUR 4453 (*Mike Ward for Congress*); MUR 4454 (*Ralph Nader*); MUR 4459 (*Clinton/Gore '96*); MUR 4474 (*Salvi for Senate*); MUR 4477 (*BBDO-New York*); MUR 4481 (*Diamond Bar Caucus*); MUR 4485 (*Perot '92 Petition Committee*); MUR 4486 (*Bunda for Congress*); MUR 4495 (*Pennsylvania PACE for Federal Elections*); MUR 4496 (*Norwood for Congress*); MUR 4497 (*Pease for Congress*); MUR 4510 (*Stabenow for Congress*); MUR 4511 (*Bob Coffin for Congress*); MUR 4514 (*Friends for Franks*); MUR 4515 (*Clinton Investigative Commission*); MUR 4521 (*W.M.A.L. 630 AM*); MUR 4525 (*Senator Larry Pressler*); MUR 4527 (*Brennan for Senate*); MUR 4536 (*Signature Properties, Inc.*); MUR 4540 (*Tim Johnson for SD*); MUR 4542 (*Dan Frisa for Congress*); MUR 4552 (*Charles W. Norwood*); MUR 4554 (*John Byron for Congress*); MUR 4556 (*Jim Wiggins for Congress*); MUR 4561 (*Jay Hoffman for Congress*); MUR 4564 (*National Republican Congressional Committee*); MUR 4567 (*DNC Services Corp.*); MUR 4569 (*McGovern Committee*); RAD 96L-11 (*New York Republican County Committee*); Pre-MUR 343 (*NRSC*); and Pre-MUR 312 (*Joseph Demio*). The Demio case involves fundraising related to former Congresswoman Mary Rose Oaker's 1992 congressional campaign. It was held as a courtesy to the Department of Justice pending resolution of a parallel criminal matter in the District Court for the District of Columbia. Mr. Demio recently entered into a plea agreement with the Department of Justice (on which we were not consulted) in which he agreed, among other things, to waive the statute of limitations regarding civil violations of the FECA. Considering the age of the case and activity, the fact that DOJ has not formally referred this matter to us, and the Commission's continuing resource constraints, dismissal is the appropriate disposition of this matter.

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We recommend that the Commission exercise its prosecutorial discretion and direct closure of the cases listed below, effective November 17, 1997. Closing these cases as of this date will permit CED and the Legal Review Team the necessary time to prepare closing letters and case files for the public record.

III. RECOMMENDATIONS.

A. Decline to open a MUR, close the file effective November 17, 1997, and approve the appropriate letters in the following matters:

RAD 96L-11

Pre-MUR 312

Pre-MUR 349

Pre-MUR 343

Pre-MUR 350

RAD 97L-10

Pre-MUR 347

Pre-MUR 355

RAD 97L-16

Pre-MUR 348

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B. Take no action, close the file effective November 17, 1997, and approve the appropriate letters in the following matters:

MUR 4283	MUR 4495	
MUR 4341	MUR 4496	MUR 4569
MUR 4402	MUR 4497	MUR 4586
MUR 4435	MUR 4510	MUR 4590
MUR 4439	MUR 4511	MUR 4600
MUR 4442	MUR 4514	MUR 4612
MUR 4444	MUR 4515	MUR 4615
MUR 4445		MUR 4616
MUR 4446	MUR 4521	MUR 4620
MUR 4447	MUR 4525	MUR 4622
MUR 4449	MUR 4527	MUR 4628
MUR 4453	MUR 4536	MUR 4629
MUR 4454	MUR 4540	MUR 4636
MUR 4459	MUR 4542	MUR 4637
MUR 4474	MUR 4552	MUR 4639
MUR 4477	MUR 4554	MUR 4641
MUR 4481	MUR 4556	MUR 4644
MUR 4485	MUR 4561	MUR 4651
MUR 4486		MUR 4653
	MUR 4564	MUR 4656
MUR 4494	MUR 4567	MUR 4657

Date

7/97

Lawrence M. Noble
General Counsel

28043853997

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) Agenda Document No. X97-77
Enforcement Priority)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on December 2, 1997, do hereby certify that the Commission took the following actions with respect to Agenda Document No. X97-77:

1. Decided by a vote of 5-0 to

A. Decline to open a MUR, close the file effective December 15, 1997, and approve the appropriate letters in the following matters:

- | | |
|----------------|-----------------|
| 1. RAD 96L-11 | 7. Pre-MUR 347 |
| | 8. Pre-MUR 348 |
| 3. RAD 97L-10 | 9. Pre-MUR 349 |
| 4. RAD 97L-16 | 10. Pre-MUR 350 |
| 5. Pre-MUR 312 | 11. Pre-MUR 355 |
| 6. Pre-MUR 343 | |

B. Take no action, close the file effective December 15, 1997, and approve the appropriate letters in the following matters:

- | | |
|-------------|--------------|
| 1. MUR 4283 | 6. MUR 4442 |
| 2. MUR 4341 | 7. MUR 4444 |
| 3. MUR 4402 | 8. MUR 4445 |
| 4. MUR 4435 | 9. MUR 4446 |
| 5. MUR 4439 | 10. MUR 4447 |

(continued)

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Federal Election Commission
Certification: Agenda Document
No. X97-77
December 2, 1997

Page 2

11.	MUR 4449	36.	MUR 4556
12.	MUR 4453	37.	MUR 4561
13.	MUR 4454	38.	MUR 4564
14.	MUR 4459	39.	MUR 4567
15.	MUR 4474	40.	MUR 4569
16.	MUR 4477	41.	MUR 4586
17.	MUR 4481	42.	MUR 4590
18.	MUR 4485	43.	MUR 4600
19.	MUR 4486	44.	MUR 4612
20.	MUR 4494	45.	MUR 4615
21.	MUR 4495	46.	MUR 4616
22.	MUR 4496	47.	MUR 4620
23.	MUR 4497	48.	MUR 4622
24.	MUR 4510	49.	MUR 4628
25.	MUR 4511	50.	MUR 4629
26.	MUR 4514	51.	MUR 4636
27.	MUR 4515	52.	MUR 4637
28.	MUR 4521	53.	MUR 4639
29.	MUR 4525	54.	MUR 4641
30.	MUR 4527	55.	MUR 4644
31.	MUR 4536	56.	MUR 4651
32.	MUR 4540	57.	MUR 4653
33.	MUR 4542	58.	MUR 4656
34.	MUR 4552	59.	MUR 4657
35.	MUR 4554		

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

Attest:

12-4-97
Date

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

28043853999



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 15, 1997

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ted Maness, Executive Director
National Republican Congressional Committee
320 First Street, SE
Washington, DC 20003

RE: MUR 4439

Dear Mr. Maness:

On August 13, 1996, the Federal Election Commission received Maria Cino's complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act").

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action in the matter. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on December 15, 1997. This matter will become part of the public record within 30 days.

The Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437(g)(a)(8).

Sincerely,

A handwritten signature in black ink, appearing to read "F. Andrew Turley".

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

28047854000



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 15, 1997

Edward F. McKee, Treasurer
Fricano for Congress
5182 Eastbrooke Place
Williamsville, NY 14221

RE: MUR 4439

Dear Mr. McKee:

On August 19, 1996, the Federal Election Commission notified you of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action against Fricano for Congress and you, as treasurer. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on December 15, 1997.

The confidentiality provisions of 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 prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

If you have any questions, please contact Jennifer H. Boyt on our toll-free number, (800)-424-9530. Our local number is (202) 219-3690.

Sincerely,

A handwritten signature in black ink, appearing to read "F. Andrew Turley".

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

cc: Thomas M. Fricano

28043854001



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 15, 1997

M. Jay Whitman, Esq.
International Union, United Automobile,
Aerospace and Agricultural Implement
Workers of America
8000 E. Jefferson
Detroit, MI 48214

RE: MUR 4439
International Union, United Automobile, Aerospace and
Agricultural Implement Workers of America, Stephen P.
Yokich, President

Dear Mr. Whitman:

On August 19, 1996, the Federal Election Commission notified your clients of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action against your clients. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on December 15, 1997.

The confidentiality provisions of 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 prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

If you have any questions, please contact Jennifer H. Boyt on our toll-free number, (800)-424-9530. Our local number is (202) 219-3690.

Sincerely,

A handwritten signature in black ink, appearing to read "F. Andrew Turley".

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

28043854002



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4439

DATE FILMED 1/16/98 CAMERA NO. 2

CAMERAMAN SES

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