American Federation of Labor and Congress of Industrial Organizations

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December 11, 1996

Lawrence N. Noble, Esq.
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RE: FEC MUR 4516

Dear Mr. Noble:

This letter constitutes the response of the American Federation of Labor and Congress of Industrial Organizations ("AFL-CIO") and the AFL-CIO Committee on Political Education ("AFL-CIO COPE") and its Secretary-Treasurer, Richard L. Trumka (hereinafter "respondents"), to the complaint in the above-referenced matter. For the reasons set forth below, the Commission should take no further action against respondents and should dismiss the complaint.

This complaint is one of a series of politically-motivated, wholly unsupported complaints filed by the Republican Party campaign committees against the AFL-CIO. As usual, this complaint is a melange of unfounded allegations, irrelevant statutory provisions, and inapplicable advisory opinions with the result that it is up to the respondents to attempt to discern which provision of the Act they are alleged to have violated and how.

Indeed, there is not a single fact in this complaint or in the attachments thereto relevant to the AFL-CIO or AFL-CIO COPE. Instead, it appears that the AFL-CIO and AFL-CIO COPE were merely

dropped in as respondents as an afterthought. On this basis alone, the Commission should dismiss this complaint since it fails to meet even the minimal requirements set forth in 11 C.F.R. §111.4. [1]

Without waiving the right to object to this complaint on procedural grounds as well as to the defects in the Commission's service, we also demonstrate below that there is no basis for the Commission to find "reason to believe" that respondents may have violated any applicable provision of the Federal Election Campaign Act of 1971, as amended ("the Act").

Discussion

As best as can be ascertained, the complaint alleges that the AFL-CIO and AFL-CIO COPE violated the Act by making illegal expenditures for "issues" television advertisements . However, neither the complaint nor any of the attachments to the complaint identify any specific "issues" television advertisement(s) paid for by the AFL-CIO or by AFL-CIO COPE.

The AFL-CIO COPE did not make any expenditures for any television advertisements during 1996. COPE therefore did not violate 2 U.S.C. §434 by failing to report such expenditures.

The AFL-CIO did make expenditures earlier this year for lawful "issues" television advertisements. Those advertisements, which were grassroots lobbying communications, have already been addressed in the AFL-CIO's responses to FEC MURs 4307, 4338, and 4463, which are herein incorporated by reference to the extent necessary. Moreover, since the advertisements in question did not "expressly advocate the election or defeat of a clearly identified

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[1] Section 437g of the Act requires the Commission to notify persons alleged to have violated the Act "within 5 days after receipt of the complaint. " 2 U.S.C. §437g(a). Despite that requirement, the Commission did not notify respondents about this complaint until October 23, 1996. See Attachment A. The complaint should therefore be dismissed for improper service.

candidate" the AFL-CIO did not violate the Act by failing to include the disclaimer required by § 441d. See 2 U.S.C. 441d(a).

The complaint also alleges that the issues television advertisements paid for by the AFL-CIO were "coordinated" expenditures. However, neither the body of the complaint nor the attachments contain any factual evidence of coordination by the AFL-CIO. And, in fact, the AFL-CIO did not coordinate its "issues" television advertisements with any candidate.

Conclusion

For the foregoing reasons, the Commission should take no action in this matter against respondents and should dismiss this complaint.

Respectfully submitted,

Margaret E. McCormick

Margaret E. McCormick
Counsel for Respondents