



AFSCME®

American Federation of State, County and Municipal Employees, AFL-CIO

Gerald W. McEntee
President

William Lucy
Secretary-Treasurer

John C. Dempsey
Larry P. Weinberg
General Counsel

Robert D. Lenhard
Neil I. Ditchek
Margaret A. McCann
Gloria P. Clement
Associate General Counsel

General Counsel's Office
1101 17th Street, N.W., Suite 1210
Washington, D.C. 20036-5687
Telephone: (202) 775-5900
Fax: (202) 452-0556

August 10, 1998

Aug 10 3 12 PM '98

Thomas J. Andersen, Esq.
Office of the General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 4762
(AFSCME, AFSCME - PEOPLE and William Lucy, as Treasurer)

Dear Mr. Andersen:

Pursuant to Chairman Aiken's letter of June 30, 1998 and the extension of time to respond granted by your office on July 14, 1998, The American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME), its affiliated separate segregated fund (AFSCME-PEOPLE), and the fund's treasurer, William Lucy (collectively referred to herein as "respondents"), submit this formal response to the Commission's finding of a reason to believe that the respondents have violated the Federal Election Campaign Act of 1971, as amended (the Act).

In addition to this formal response, the respondents have requested this matter be handled through the pre-probable cause conciliation process on any issue raised in the reason to believe finding that the General Counsel's Office does not conclude lacks probable cause to pursue after reviewing this response.

The Factual and Legal Analysis accompanying Chairman Aiken's letter of June 30, 1998 cites to a number of different contributions or expenditures in 1996. The issues raised by these transactions are addressed in four different sections below.

Use of Telephone Banks of a Connected Organization

There is no dispute between the parties that telephone banks operated by AFSCME were used by AFSCME-PEOPLE for telephone calls in support of three candidates for federal office in 1996 and that those services were not paid for prior to

the calls being made.¹ In finding a "reason to believe" a violation of the Act had occurred, the Commission took the position that "the Act generally prohibits any initial disbursement of corporate or union treasury monies to pay for services in connection with federal elections." The respondents raise three points in support of their position that the failure to pay for these calls before they were made did not constitute a violation of the Act. First, the Commission's regulations permit a union to lease or rent its facilities and telephones to "any person" on a commercially reasonable basis. Second, if the analysis advanced in the "reason to believe" finding is correct (*i.e.*, that failure to pre-pay for a service constitutes and impermissible contribution or expenditure), that violation occurs regardless of whether the phone calls are made by AFSCME, an incorporated commercial vendor or a union unaffiliated with AFSCME or AFSCME-PEOPLE. Third, the advance payment system advocated in the "reason to believe" finding is impractical because the actual cost of the service can be difficult to determine in advance and any error will generate a new violation of the law, (*i.e.*, a low estimate and underpayment will constitute an illegal "expenditure" or "contribution" even if paid in a commercially reasonable period of time and a high estimate and overpayment cannot be reimbursed to the political committee because it would constitute a transfer of union treasury funds into the separate segregated fund, even though it was only a repayment of moneys previously forwarded for a service which was not provided.) Thus, this matter should not be treated as falling under 11 C.F.R. 114.2 (barring use of treasury funds for "expenditures" or "contributions") and instead be treated as a matter falling under 11 C.F.R. 114.9(c) & (d) (use of union facilities if paid for in a commercially reasonable time).

The Commission's regulations permit a labor union to allow "any person" to use its "facilities" (and specifically includes its telephones in that definition), for activity in connection with a federal election so long as the union is reimbursed for those expenses within a commercially reasonable time in the amount of the normal and usual rental charge. 11 C.F.R. 114.9(c) & (d). The Commission's regulations define a "person" to include a "committee" such as AFSCME-PEOPLE. 11 C.F.R. 100.10. There seems to be no dispute that if the candidates themselves had directly arranged with AFSCME to have the phone banks make those calls, rather than the political committee making the arrangement, the Commission would not question the propriety of the payment. Thus, AFSCME-PEOPLE could have made contributions to the candidates and the candidates could have contracted directly with AFSCME for the phones. *None of the reasons set forth in the "reason to believe" finding justify treating the transaction that did occur differently from this hypothetical.*²

¹ The first set of calls in support of Glen Browder were made between June 1 to 4, 1996 and were paid for on June 27, 1996. A second set of calls in support of Glen Browder were made between June 22 and 25, 1996, and were paid for on July 11, 1996. Calls in support of Leslie Bryne were made between April 9 and 12, 1996 and were paid for on June 27, 1996. Calls in support of Tom Strickland were made between August 13 and 19, 1996, and were paid for on August 21, 1996.

² Nor is it clear what policy reason would lead the Commission to encourage such merry-go-round transactions.

Instead of the rather clear regulations associated with the use of union facilities at 11 C.F.R. 114.9, the Commission relies instead on the more general statutory and regulatory language which prohibits the use of union treasury funds to influence a federal election outside of certain delineated exceptions. 2 U.S.C. 441a and 11 C.F.R. 114.2. From this general principle, the Commission concludes that the period of time between when the calls were made and when the payments were made causes the payment for those calls to become a contribution.³ Yet the logic which underpins this conclusion applies equally to all services of value provided by a corporation or a labor union, regardless of whether they are provided to a connected political committee or not. If AFSCME-PEOPLE had contracted with either an incorporated commercial vendor or a labor union which is not affiliated with AFSCME or AFSCME-PEOPLE and which had a phone bank, either entity would use corporate or union treasury funds to make the calls (i.e., an expenditure in support of a candidate for federal office), just as AFSCME did in this case. It is illogical and unsupported by law to distinguish between a contract between a connected organization and its political committee (which is banned) and a contract between the candidate and the connected organization (which is permitted so long as the terms do not constitute a loan or gift) or a contract between the political committee and a corporation or another union (which is permitted so long as commercially reasonable). The distinction which is created by prosecuting this case does not cure the ill the Commission is concerned with. Rather, a test as to whether the payment is made in a commercially reasonable time is a more appropriate standard by which to assess the transaction.

There is at least one more problem with the Commission's interpretation of the Act and regulations advanced in this matter: the good or service being purchased is priced on a basis which can be difficult to measure prior to the performance of the work. The price of a project will often vary widely depending on the quality of the list of individuals to be called by the phone bank. If the list is old, contains duplicate names or is inaccurate as to the number of individuals on it, this will affect the price of the project. Most frequently, the list will contain fewer names or fewer useable names than initially thought. A commercially reasonable solution to this problem is for the vendor to reimburse the client for the excess payment. However, in this context, a reimbursement is arguably a violation of the Act, as the Commission notes by citing AFL-CIO v. FEC, 628 F.2d 97 (D.C. Cir.), cert. denied, 449 U.S. 982 (1980).⁴ Similarly, if the

³ Even if this were true, which it is not, the value of the contribution would be limited to the value of the use of the money for the number of days between its "expenditure" and its "reimbursement" and not the overall value of the contribution to the candidate.

⁴ While it is possible the Commission will take the view that in such a circumstance, the entity operating the phone bank should maintain a credit or reserve to be used in future elections, that is not generally a reasonable commercial practice. As a general matter, the rules should not be interpreted in a way that causes parties to act in a manner that is not otherwise commercially reasonable, especially given the uncertainty described above as to whether the rules are achieving their goals.

cost of a project exceeds the estimate, and additional payments be due, the Commission would presumably take the position, as it has here, that that error generated something of value for the candidate and political committee and as such constituted an illegal contribution.

Alleged Excessive Contributions to County Parties in the State of Texas in 1996

In 1996, AFSCME-PEOPLE made contributions to the federal accounts of the Texas Democratic Party and to five county democratic party organizations in Texas.⁵ It was AFSCME's understanding that these organizations were not affiliated and a contribution of \$5,000 was made to each. Subsequently to these contributions, the FEC contacted AFSCME-PEOPLE and alleged these organizations were all affiliated and argued that the aggregate contributions exceeded the permissible limits by \$25,000. AFSCME-PEOPLE wrote to all of the county political committees requesting a refund or proof of non-affiliation. Copies of the letters are attached at Tab A. Between June 27 and September 10, 1997, each and every one of these political committees wrote AFSCME-PEOPLE, refused to refund the contribution and again asserted that they were not affiliated with each other. Copies of the letters are attached at Tab B. Some of the letters cite Texas law and others cite particular facts or a history of non-affiliation. AFSCME-PEOPLE neither had nor has any independent knowledge as to whether these committees operate independently of each other or not.

AFSCME-PEOPLE acted as a reasonable donor in this case and its conduct does not constitute a violation of Section 441a(a) of the Act. While the FEC's regulations provide for a presumption of affiliation, that presumption is refutable and the Texas political committees affirmatively assert that they are not affiliated (and from their letters appear to be arguing that position to the FEC in some unrelated way or matter). All of the political committees have refused to refund AFSCME-PEOPLE's contributions. At best, the facts will show that the Texas political committees are not, in fact, affiliated entities and no entity has violated the Act. At worst, the conduct of AFSCME-PEOPLE is that of an innocent donor and no liability should attach.

Redesignation of Contribution to Cummings For Congress

AFSCME-PEOPLE made two contributions to the Cummings for Congress campaign. The first occurred on May 13, 1996 and was for the sum of \$5,000. The second was on October 15, 1996 and was for \$2,500. Both contributions were designated for the general election. The FEC contacted AFSCME-PEOPLE on April 16, 1997 regarding these contributions. The letter forwarded by the Commission (more than 4 months after the period for redesignation had ended)

⁵ While the "reason to believe" Factual and Legal Analysis makes reference to the "21st Century Political Action Committee," it is not clear that this organization is related to the Texas Democratic Party.

Thomas J. Andersen, Esq.

August 10, 1998

MUR 4762

Page 5

advised AFSCME-PEOPLE that it should *either* seek a redesignation of the contribution *or* seek a refund.⁶ AFSCME-PEOPLE attempted to redesignate the contributions by means of a letter to the Treasurer of the Cummings for Congress committee dated June 5, 1997, and a similar correspondence on that same day to the FEC's Report Analysis Division. An amended 30-Day Post General Report was filed on June 17, 1997. Copies of these documents are attached at Tab C.

There is no dispute between the parties that AFSCME-PEOPLE sought to redesignate its contribution more than 60 days after the contribution had been made. In mitigation the following points are of note: the individual who redesignated the contribution was not aware that it had to occur within 60 days of the contribution having been made and the letter from the FEC listed redesignation as one of two choices available to the respondent even though the Commission now takes the position that selection of that option constituted a violation of the Act. The apparently excess contribution to the Cummings for Congress campaign was an inadvertent error and AFSCME-PEOPLE reasonably sought to comply with the Act when the matter was discovered.

Contributions to Shelia Jackson Lee for Congress

AFSCME-PEOPLE made three contributions to the Shelia Jackson Lee for Congress committee. The first contribution was made on June 28, 1996 and was for \$2,500. That contribution was designated for the 1996 general election on the accompanying cover letter. The second contribution was made on October 3, 1996 and was for \$2,500. That contribution was also designated on the accompanying letter as being for the 1996 general election. The third contribution was on or about October 18, 1996 and was for \$2,500. That contribution was designated on the accompanying letter as being for the 1996 special general election.

The FEC contends that AFSCME-PEOPLE disclosed a total of \$5,000 in "apparently excessive contributions to each of two federal candidate committees in its 1996 30 Day Post-General Report." The FEC states that this matter was raised by the Reports Analysis Division (RAD) in a letter dated April 16, 1997. AFSCME-PEOPLE's report of this contribution had erroneously identified it as being for the "general" election even though the contribution itself was designated on the accompanying letter as being for the "special general" election. AFSCME-PEOPLE responded to the FEC on June 17, 1997 by stating that the contribution "should have been reported as a 1996 Special General Contribution instead of a 1996 General Election."

⁶ The letter went on to state: "In the best interest of your committee, all refunds and redesignations should be made within sixty days of the treasurer's receipt of the contribution(s)." See, Tab C.

Thomas J. Andersen, Esq.

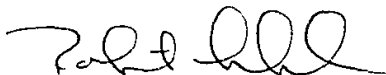
August 10, 1998

MUR 4762

Page 6

There is no violation of law here. AFSCME made contributions totaling \$5,000 in the general election (June 28 and October 3) and a \$2,500 contribution to the special general election (October 18). Each contribution contained a designation of the race for which it was being given.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Lenhard", with a stylized flourish at the end.

Robert Lenhard

A



AFSCME
in the public service



Gerard M. McInnes, President, or Local Secretary/Treasurer

July 30, 1997

Ms. Mary Ellen Brennan
Galveston County Democratic Party
527 21st Street
Galveston, Texas 77550

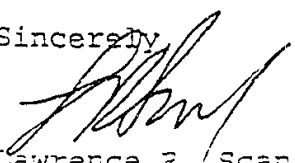
Dear Ms. Brennan,

We have received a letter from the Federal Election Commission in which it appears that the Commission is taking the position that your committee is affiliated with the Texas Democratic Party for purposes of the contribution limitations contained in the Federal Election Campaign Act.

It was our understanding that your committee was not, in fact, affiliated with the state democratic party, and it was on that basis that we made a contribution to your committee on December 4, 1996 in addition to the \$5,000 contribution we had made to the state party. If the Commission is correct in asserting that you are affiliated with the state democratic party for purposes of the contribution limits contained in the Act, we are requesting that you refund the \$5,000 AFSCME contributed to your committee.

If it is your position that your committee is not affiliated with the state democratic party, please advise us of the basis for that position so that we can determine what course of action is appropriate for AFSCME in this matter.

Sincerely,


Lawrence R. Scanlon
Director of Political Action

10-10757-1 (1-81) (GPO) 0-0 10000 200 100-1001



AFSCME
in the public service



Gerold W. McIntire, President/William Lucy, Secretary-Treasurer

July 30, 1997

Mr. David Minberg, Chair
Harris County, Texas Democratic Party
911 Westheimer, Suite 208
Houston, Texas 77006

Dear Mr. Minberg,

We have received a letter from the Federal Election Commission in which it appears that the Commission is taking the position that your committee is affiliated with the Texas Democratic Party for purposes of the contribution limitations contained in the Federal Election Campaign Act.

It was our understanding that your committee was not, in fact, affiliated with the state democratic party, and it was on that basis that we made a contribution to your committee on October 24, 1996 in addition to the \$5,000 contribution we had made to the state party. If the Commission is correct in asserting that you are affiliated with the state democratic party for purposes of the contribution limits contained in the Act, we are requesting that you refund the \$5,000 AFSCME contributed to your committee.

If it is your position that your committee is not affiliated with the state democratic party, please advise us of the basis for that position so that we can determine what course of action is appropriate for AFSCME in this matter.

Sincerely,

Lawrence R. Scanlon
Director of Political Action

AFSCME PEOPLE, WASHINGTON, D.C. 20036 (202) 462-1000



AFSCME
in the public service



Gerald W. McEniece, President/William J. May, Secretary-Treasurer

July 30, 1997

Mr. Gilbert Adams, Chair
Jefferson County, Texas Democratic Party
310 North 11th Street
Beaumont, Texas 77701

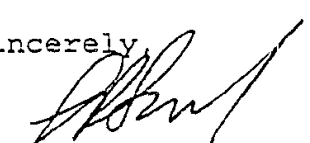
Dear Mr. Adams,

We have received a letter from the Federal Election Commission in which it appears that the Commission is taking the position that your committee is affiliated with the Texas Democratic Party for purposes of the contribution limitations contained in the Federal Election Campaign Act.

It was our understanding that your committee was not, in fact, affiliated with the state democratic party, and it was on that basis that we made a contribution to your committee on October 24, 1996 in addition to the \$5,000 contribution we had made to the state party. If the Commission is correct in asserting that you are affiliated with the state democratic party for purposes of the contribution limits contained in the Act, we are requesting that you refund the \$5,000 AFSCME contributed to your committee.

If it is your position that your committee is not affiliated with the state democratic party, please advise us of the basis for that position so that we can determine what course of action is appropriate for AFSCME in this matter.

Sincerely,


Lawrence R. Scanlon
Director of Political Action

U.S. DEPARTMENT OF JUSTICE, CIVIL RIGHTS DIVISION, 475 L'ENCLAVE DRIVE, WASHINGTON, D.C. 20535 (202) 472-1000



AFSCME
in the public service



Gerald W. McEnree, President/William Lucv. Secretary-Treasurer

July 30, 1997

Mr. Art Brender, Chair
Tarrant County, Texas Democratic Party
719 North Beach
Fort Worth, Texas 76111

Dear Mr. Brender,

We have received a letter from the Federal Election Commission in which it appears that the Commission is taking the position that your committee is affiliated with the Texas Democratic Party for purposes of the contribution limitations contained in the Federal Election Campaign Act.

It was our understanding that your committee was not, in fact, affiliated with the state democratic party, and it was on that basis that we made a contribution to your committee on October 24, 1996 in addition to the \$5,000 contribution we had made to the state party. If the Commission is correct in asserting that you are affiliated with the state democratic party for purposes of the contribution limits contained in the Act, we are requesting that you refund the \$5,000 AFSCME contributed to your committee.

If it is your position that your committee is not affiliated with the state democratic party, please advise us of the basis for that position so that we can determine what course of action is appropriate for AFSCME in this matter.

Sincerely,

Lawrence R. Scanlon
Director of Political Action



AFSCME
in the public service



Gerald W. McEntee, President/W. Tom Lucy, Secretary-Treasurer

July 30, 1997

Ms. Lisa Payne, Chair
Dallas County, Texas Democratic Party
6440 North Central Expressway, #416
Dallas, Texas 75206

Dear Ms. Payne,

We have received a letter from the Federal Election Commission in which it appears that the Commission is taking the position that your committee is affiliated with the Texas Democratic Party for purposes of the contribution limitations contained in the Federal Election Campaign Act.

It was our understanding that your committee was not, in fact, affiliated with the state democratic party, and it was on that basis that we made a contribution to your committee on October 24, 1996 in addition to the \$5,000 contribution we had made to the state party. If the Commission is correct in asserting that you are affiliated with the state democratic party for purposes of the contribution limits contained in the Act, we are requesting that you refund the \$5,000 AFSCME contributed to your committee.

If it is your position that your committee is not affiliated with the state democratic party, please advise us of the basis for that position so that we can determine what course of action is appropriate for AFSCME in this matter.

Sincerely,

Lawrence R. Scanlon
Director of Political Action



AFSCME
in the public service



Gerald W. McEntee, President/William Lucy, Secretary-Treasurer

August 25, 1997

Mr. Gilbert Adams, Chair
Jefferson County, Texas Democratic Party
310 North 11th Street
Beaumont, Texas 77701

Dear Mr. Adams:

Attached is a copy of a letter I sent you on July 30, 1997. To date I have not received a reply.

If you have already received and responded to the attached letter, please ignore this notice. Otherwise, please send your reply promptly.

Thank you for your cooperation.

Sincerely,

Lawrence R. Scanlon
Director of Political Action



AFSCME
in the public service



Gerald A. McIntee, President; William Luch, Secretary-Treasurer

August 25, 1997

Mr. David Mincberg, Chair
Harris County, Texas Democratic Party
911 Westheimer, Suite 208
Houston, Texas 77006

Dear Mr. Mincberg:

Attached is a copy of a letter I sent you on July 30, 1997. To date I have not received a reply.

If you have already received and responded to the attached letter, please ignore this notice. Otherwise, please send your reply promptly.

Thank you for your cooperation.

Sincerely,

Lawrence R. Scanlon
Director of Political Action

1515 STREET N.E. WASHINGTON, D.C. 20002-4294

In accordance with Federal Law, the PEOPLE Committee will accept contributions only from members of AFSCME and their families. Contributions or gifts to AFSCME PEOPLE are not deductible as charitable contributions for federal income tax purposes.

HARRIS COUNTY DEMOCRATIC PARTY

★ TAKING BACK HARRIS COUNTY ★

811 WESTHEIMER, SUITE 103 • HOUSTON, TEXAS 77006 • PHONE: 713/522-9361 • FAX: 713/522-9622

June 27, 1997

RECEIVED

97 SEP -2 AIO:40

Dear AFSCME;

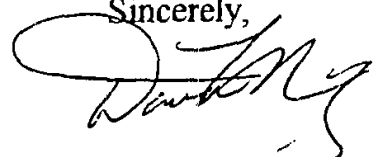
POL. ACTION DEPT

We have received your request for a refund of your contribution to the Harris County Democratic Party. We understand that the Federal Election Commission has contacted you about this contribution and raised a question about whether your political committee may have exceeded the contribution limits by contributing to the state and county party in Texas.

We are currently addressing this issue with the FEC and have provided information to demonstrate that the state and county Democratic parties are not affiliated, as that term is defined under the FEC's regulations. The county and the state parties have been acting under the same structure for many years and there has never been any question of affiliation. Therefore, the state and county parties are not subject to one contribution limit. We are confident that the information that we have provided to the FEC demonstrates that there is no affiliation and that the contribution your political committee made to the party is lawful.

Therefore, the refund that you have requested, apparently believing that this contribution was unlawful, is not required. We will alert you in the event there is any additional information that comes to our attention about this issue in the future.

Sincerely,



David Minberg

TARRANT DEMOCRATIC PARTY

Art Brender, Chairman

August 4, 1997

RECEIVED

97 AUG -8 P1:23

POL. ACTION DEPT

Lawrence R. Scanlon

Director of Political Action

PEOPLE, American Federation of State, County and Municipal Employees

1625 L Street NW

Washington, D.C. 20036

Dear Mr. Scanlon:

We have received your request for a refund of your contribution to the Tarrant County Party. We understand that the Federal Election Commission has contacted you about this contribution and raised a question about whether your political committee may have exceeded the contribution limits by contributing to the state and county party in Texas.

We are currently addressing this issue with the FEC and have provided information to demonstrate that the state and county Democratic parties are not affiliated, as that term is defined under the FEC's regulations. The county and state parties have been acting under the same structure for more than 96 years and there has never been any question of affiliation. Therefore, the state and county parties are not subject to one contribution limit. We are confident that the information we have provided to the FEC demonstrates that there is no affiliation and that the contribution your political committee made to the party is lawful.

Therefore, the refund that you have requested, apparently believing that this contribution was unlawful, is not required. We will alert you in the event there is any additional information that comes to our attention about this issue in the future.

Sincerely,



Art Brender,

County Chair

Tarrant Democratic Party

AB/bf

719 North Beach Street • Fort Worth, Texas 76111-5944 • Tel (817) 831-1994 • Fax (817) 831-8885

e-mail: democrat@cyberhighway.net Web Site: <http://www.cyberhighway.net/~democrat>

DALLAS COUNTY DEMOCRATIC PARTY

LISA Y. PAYNE

Chair

August 6, 1997

Lawrence R. Scanlon
AFSCME, Director of Political Action
1625 L St. N.W.
Washington, D.C. 20036

RECEIVED

'97 AUG 12 AM 11:46

Dear Mr. Scanlon:

POL. ACTION DEF.

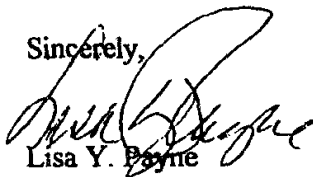
We have received your request for a refund of your contribution to the Dallas County Democratic Party. We understand that the Federal Election Commission has contacted you about this contribution and raised a question about whether your political committee may have exceeded the contribution limits by contributing to the state and county party in Texas.

We are currently addressing this issue with the FEC and have provided information to them to demonstrate that the state and county Democratic parties are not affiliated, as that term is defined under the FEC's regulations. The county and state parties have been acting under the same structure for many years and there has never been any question of affiliation. Therefore, the state and county parties are not subject to one contribution limit. We are confident that the information we have provided to the FEC demonstrates that there is no affiliation and that the contribution your political committee made to the party is lawful.

We will alert you if any additional information comes to our attention about this issue in the future. Please do not hesitate to contact me if you need further information.

Thank you for your past and continuing support.

Sincerely,



Lisa Y. Payne
County Chair

GALVESTON COUNTY DEMOCRATIC PARTY

Mary Ellen Brennan
Chairwoman

Maria Luisa Mercado
Secretary

August 21, 1997

Mr. Lawrence R. Scanlon
Director of Political Action
AFSCME
1625 L Street N.W.
Washington, D.C. 20036

RECEIVED

'97 AUG 21 12:58

POL. ACTION DEPT

Dear Mr. Scanlon:

In reference to your letter of July 30, 1997, please be advised that the Galveston County Democratic Party considers itself an independent organization and is not affiliated with the Texas State Democratic Party or any other county club or party as that term is defined under the FEC's regulations in reference to contribution limits.

Under Texas law and the state party rules, the state party has no authority or control over, and no responsibility for the finances or actions of, the county party organizations. Therefore, any presumption of affiliation under the regulation would be overcome by a demonstration of the actual relationship of the state and county parties.

We are confident that the information we have provided to the FEC demonstrates that there is no affiliation and that the contribution your political committee very graciously made to the Galveston County Democratic Party is lawful.

Please correct your records to reflect the address listed below. The address in Galveston that you originally sent your letter to was a campaign headquarters during the election cycle only. Obviously, this explains the time lapse in responding to your letter.

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

Sincerely,



Mary Ellen Brennan
County Chairwoman

afscme.wps08/21/97



Jefferson County Democratic Party

September 10, 1997

Mr. Lawrence R. Scanlon
Director of Political Action
A.F.S.C.M.E.
1625 L Street N.W.
Washington, D.C. 20036

RECEIVED

Re: Reply to your letter of July 30, 1997 (Copy ~~97 SEP 15~~ P1:50)

Dear Mr. Scanlon,


POL. ACTION DEP.

We have received your request for a refund of your contribution to the Jefferson County Democratic Party. We understand that the Federal Election Commission has contacted you about this contribution and raised a question about whether your political committee may have exceeded the contribution limits by contributing to both the state and county parties in Texas.

We are currently addressing this issue with the FEC. and have provided information to establish that the state and county Democratic parties are not affiliated, as that term is defined under the FEC's regulations. The county and state parties have been acting under separate structure for many years and there has never before been any question of affiliation. Therefore the state and county parties are not subject to one contribution limit. We are confident that the information we have provided to the FEC demonstrates that there is no "affiliation" as that term is defined in law and that the contribution your political committee made to the party is lawful. We anticipate that the FEC will likewise conclude as it considers the matter completely.

Therefore, the refund that you have requested, apparently believing that this contribution was unlawful, is not in our view appropriate. We will alert you in the event there is any additional information that comes to our attention about this issue in the future.

Sincerely,



Gilbert T. Adams
Jefferson County Democratic Chairman



AFL-CIO

American Federation of State, County and Municipal Employees, AFL-CIO

1625 L Street, N.W., Washington, D.C. 20036-5687

Telephone (202) 429-1000

Telex 89-2376

Facsimile (202) 429-1293

TDD (202) 659-0446

June 5, 1997

Gerald W. McEntee
President

William Lucy
Secretary-Treasurer

Vice Presidents

Ronald C. Alexander
Columbus, Ohio

Dominic J. Badolato
New Britain, Conn.

Henry L. Bayer
Chicago, Ill.

Peter J. Benner
St. Paul, Minn.

George Boncoraglio
New York, N.Y.

Gloria C. Cobbin
Detroit, Mich.

W. Faye Cole
Houston, Texas

Jan Corderman
Des Moines, Iowa

Bruno Dellana
Pittsburgh, Pa.

Albert A. Diop
New York, N.Y.

Danny Donohue
Albany, N.Y.

Chris Dugovich
Everett, Wash.

William T. Endsley
Columbus, Ohio

Stephan R. Fantauzzo
Indianapolis, Ind.

Anthony M. Gingello
Rochester, N.Y.

Stanley W. Hill
New York, N.Y.

Carolyn J. Holmes
Williamstown, N.J.

Whitney L. Jackson
Derry, N.H.

Edward J. Keller
Harrisburg, Pa.

Roberta Lynch
Chicago, Ill.

Glenard S. Middleton, Sr.
Baltimore, Md.

Michael D. Murphy
Madison, Wis.

Henry Nicholas
Philadelphia, Pa.

Russell K. Okata
Honolulu, Hawaii

George E. Poppyack
Belmont, Calif.

Joseph P. Rugola
Columbus, Ohio

Kathy J. Sackman
Pomona, Calif.

Mary E. Sullivan
Albany, N.Y.

Flora Walker
Lansing, Mich.

Carland W. Webb
Baton Rouge, La.

Jeanette D. Wynn
Quincy, Fla.

Treasurer

Cummings for Congress

2014 Madison Avenue

Baltimore, Maryland 21217

RE: Contribution to Retire Debt from Special
General Election

Dear Sir:

Pursuant to 11 CFR 110.2(b), please redesignate PEOPLE's general election contribution of \$2,500 to the Cummings for Congress Committee on October 18, 1996 as a contribution to help retire the Committee's debt from the special general election. It is our understanding that the Committee's debts from the special general election race currently exceed \$2,500.

Sincerely,

William Lucy
International Secretary-Treasurer

in the public service



AFSCME®

American Federation of State, County and Municipal Employees, AFL-CIO

1625 L Street, N.W., Washington, D.C. 20036-5687

Telephone (202) 429-1000

Telex 89-2376

Facsimile (202) 429-1293

TDD (202) 659-0446

June 5, 1997

Gerald W. McEntee
President

William Lucy
Secretary-Treasurer

Vice Presidents

Ronald C. Alexander
Columbus, Ohio

Dominic J. Badolato
New Britain, Conn.

Henry L. Bayer
Chicago, Ill.

Peter J. Benner
St. Paul, Minn.

George Boncoraglio
New York, N.Y.

Gloria C. Cobbin
Detroit, Mich.

W. Faye Cole
Houston, Texas

Jan Corderman
Des Moines, Iowa

Bruno Dellana
Pittsburgh, Pa.

Albert A. Diop
New York, N.Y.

Danny Donohue
Albany, N.Y.

Chris Dugovich
Everett, Wash.

William T. Endsley
Columbus, Ohio

Stephan R. Fantauzzo
Indianapolis, Ind.

Anthony M. Gingello
Rochester, N.Y.

Stanley W. Hill
New York, N.Y.

Carolyn J. Holmes
Williamstown, N.J.

Whitney L. Jackson
Derry, N.H.

Edward J. Keller
Harrisburg, Pa.

Roberta Lynch
Chicago, Ill.

Glenard S. Middleton, Sr.
Baltimore, Md.

Michael D. Murphy
Madison, Wis.

Henry Nicholas
Philadelphia, Pa.

Russell K. Okata
Honolulu, Hawaii

George E. Popyack
Belmont, Calif.

Joseph P. Rugola
Columbus, Ohio

Kathy J. Sackman
Pomona, Calif.

Mary E. Sullivan
Albany, N.Y.

Flora Walker
Lansing, Mich.

Garland W. Webb
Baton Rouge, La.

Jeanette D. Wynn
Quincy, Fla.

John Gibson

Assistant Staff Director

Reports Analysis Division

Federal Election Commission

Washington, D.C. 20463

RE: 30-Day Post-General Report (10/16/96-11/25/96)

Dear Mr. Gibson:

Pursuant to your letter of May 8, 1997, AFSCME PEOPLE has requested that the Cummings for Congress Committee redesignate PEOPLE's \$2,500 general election contribution of October 18, 1996 to reflect that it is a contribution to retire the Committee's outstanding debt from the special general election. A copy of that request is enclosed. AFSCME PEOPLE has made no other contribution to the Cummings for Congress Committee in the special general election. We have been informed by the campaign that they currently have an outstanding debt from the special general election that exceeds \$2,500.

Sincerely,

William Lucy
International Secretary-Treasurer

Enclosure

in the public service



AFL-CIO

American Federation of State, County and Municipal Employees, AFL-CIO

1625 L Street, N.W., Washington, D.C. 20036-5687

Telephone (202) 429-1000

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Facsimile (202) 429-1293

TDD (202) 659-0446

June 17, 1997

Gerald W. McEntee
President

William Lucy
Secretary-Treasurer

Vice Presidents

Ronald C. Alexander
Columbus, Ohio

Dominic J. Badolato
New Britain, Conn.

Henry L. Bayer
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Baton Rouge, La.

Jeanette D. Wynn
Quincy, Fla.

James L. O'Malley
Business Manager

Andrew J. Dodson, Senior Reports Analyst
Reports Analysis Division
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Identification Number: C00011114

Re: 30 Day Post-General Report (10/16/96-11/25/96)

Dear Mr. Dodson:

Enclosed you will find an amended FEC report for the 30 Day Post-General Report (10/16/96 - 11/25/96). This report is being amended to reflect the following:

1. The contribution to Shelia Jackson-Lee in the amount of \$2,500.00 should have been reported as a 1996 Special General Contribution instead of a 1996 General Contribution.

2. The contribution to Elijah Cummings in the amount of \$2,500.00 charged to the 1996 General Contribution is being redesignated as a debt retirement for the 1996 Special General Election.

3. The contribution to Mel Watt for Congress in the amount of \$3,500.00 should have been listed as \$2,500.00. This correction clarifies the discrepancy of the entries itemized on Schedule B with Line 23 of the Detailed Summary Page--both should equal \$259,250.00.

If you have any questions, please do not hesitate to contact me at (202) 429-1042.

Sincerely yours,

Diane M. Heise
Staff Accountant

Enclosures

cc: Charlie Jurgonis, Accounting Manager
Lorraine O'Hara, PEOPLE Director
Linda Canan-Stephens

in the public service



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

William Lucy, Treasurer
American Federation of State County
and Municipal Employees - PEOPLE
1625 L Street, NW
Washington, DC 20036

APR 16 1997

Identification Number: C00011114

Reference: 30 Day Post-General Report (10/16/96-11/25/96)

Dear Mr. Lucy:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Schedule B of your report (pertinent portion(s) attached) discloses a contribution(s) which appears to exceed the limits set forth in the Act. 2 U.S.C. §441a(a) precludes a multicandidate committee from making a contribution to a candidate for federal office in excess of \$5,000 per election.

If the contribution(s) in question was incompletely or incorrectly disclosed, you should amend your original report with clarifying information. If you have made an excessive contribution, you should notify the recipient and request a refund of the amount in excess of \$5,000 and/or notify the recipient in writing of your redesignation of the contribution. In the best interest of your committee, all refunds and redesignations should be made within sixty days of the treasurer's receipt of the contribution(s).

Please inform the Commission of your corrective action immediately in writing and provide a photocopy of the refund request sent to the candidate(s). In addition, any refunds should be disclosed on Schedule A supporting Line 16 of the report covering the period during which they are received. Any redesignations should be disclosed as memo entries on

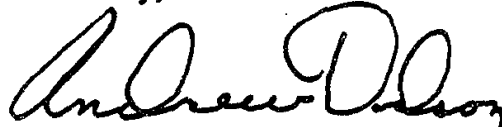
Schedule B supporting Line 23 of the report covering the period during which the redesignation is made. 11 CFR §110.2(b)

Although the Commission may take further legal action regarding the excessive contribution(s), your prompt action in obtaining a refund and/or redesignating the contribution(s) will be taken into consideration.

-Line 23 of the Detailed Summary Page of your report discloses a total of \$259,250 in contributions to federal candidates. The sum of the entries itemized on Schedule B, however, indicates the total to be \$260,250. Please amend your report to clarify the discrepancy.

A written response or an amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 219-3580.

Sincerely,



Andrew J. Dodson
Senior Reports Analyst
Reports Analysis Division



AFSCME
in the public service



Gerald W. McEntee, President/William Lucy, Secretary-Treasurer

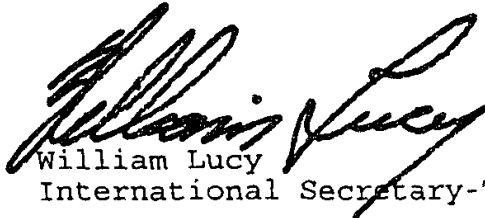
June 27, 1996

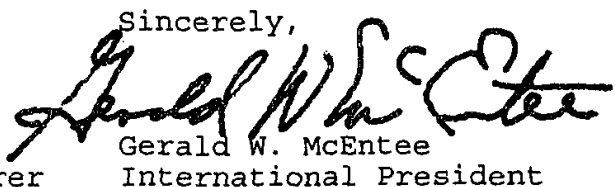
Sheila Jackson-Lee for Congress
1823 Bank Street
Houston, TX 77098

Dear Representative Jackson-Lee:

On behalf of the American Federation of State, County and Municipal Employees, we are pleased to enclose a \$2,500 contribution to Sheila Jackson-Lee for Congress for the 1996 general election. AFSCME PEOPLE is a multicandidate political action committee.

We extend AFSCME's best wishes to you for a successful campaign and look forward to working with you on AFSCME's legislative priorities.


William Lucy
International Secretary-Treasurer

Sincerely,

Gerald W. McEntee
International President

GWMcE/WL:vt

Enclosure

cc: Faye Cole, International Vice President
Terry Adkins, International Union Area Director
Don E. Simpson, Political and Legislative Director



AFSCME
in the public service



Gerald W. McEntee, President/William Lucy, Secretary-Treasurer

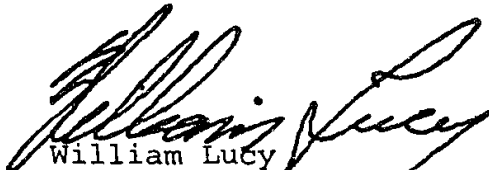
October 2, 1996

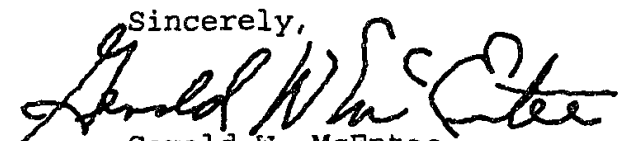
Sheila Jackson-Lee for Congress
1823 Banks Street
Houston, Texas 77098

Dear Representative Jackson-Lee:

On behalf of the American Federation of State, County and Municipal Employees, we are pleased to enclose a \$2,500 contribution to Sheila Jackson-Lee for Congress for the 1996 general election. AFSCME PEOPLE is a multicandidate political action committee.

We extend AFSCME's best wishes to you for a successful campaign and look forward to working with you on AFSCME's legislative priorities.


William Lucy
International Secretary-Treasurer

Sincerely,

Gerald W. McEntee
International President

GWMcE/WL:vt

Enclosure

cc: Faye Cole, International Vice President
Terry Adkins, International Union Area Director
Don E. Simpson, Political and Legislative Director

1625 L STREET N.W., WASHINGTON, D.C. 20036 (202) 429-1021

In accordance with Federal Law, the PEOPLE Committee will accept contributions only from members of AFSCME and their families. Contributions or gifts to AFSCME PEOPLE are not deductible as charitable contributions for federal income tax purposes.



AFSCME
in the public service



Gerald W. McEntee, President/William Lucy, Secretary-Treasurer

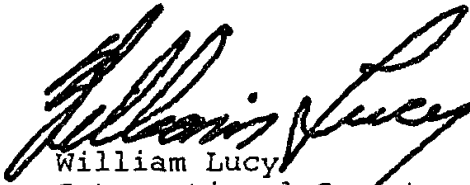
October 17, 1996

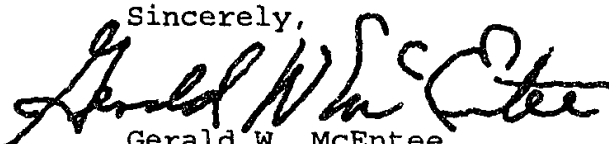
Sheila Jackson-Lee for Congress
1221 Lamar, Suite 1175
Houston, Texas 77010

Dear Representative Jackson-Lee:

On behalf of the American Federation of State, County and Municipal Employees, we are pleased to enclose a \$2,500 contribution to Sheila Jackson-Lee for Congress for the 1996 special general election. AFSCME PEOPLE is a multicandidate political action committee.

We extend AFSCME's best wishes to you for a successful campaign and look forward to working with you on AFSCME's legislative priorities.


William Lucy
International Secretary-Treasurer

Sincerely,

Gerald W. McEntee
International President

GWMcE/WL:vt

Enclosure

cc: Faye Cole, International Vice President
Terry Adkins, International Union Area Director
Don E. Simpson, Political and Legislative Director