



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

NOV 17 2000

Robert S. Garrison, Treasurer
New Jersey State Laborers' Political
Action Committee
104 Interchange Plaza, Suite 301
Cranbury, NJ 08512

RE: MUR 5151
NJ State Laborers' PAC

Dear Mr. Garrison:

On November 13, 2000, the Federal Election Commission found that there is reason to believe the New Jersey State Laborers' Political Action Committee and you, as treasurer, violated 2 U.S.C. §§ 434 (a)(4)(A)(iv) and 433(c) provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

In order to expedite the resolution of this matter, the Commission has also decided to offer to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Enclosed is a conciliation agreement that the Commission has approved.

If you are interested in expediting the resolution of this matter by pursuing preprobable cause conciliation, and if you agree with the provisions of the enclosed agreement, please sign and return the agreement, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

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

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.

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 investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Deborah Rice, the staff member assigned to this matter, at (202) 694-1650.

Sincerely,



Darryl R. Wold
Chairman

Enclosures

Factual and Legal Analysis

Procedures

Designation of Counsel Form

Conciliation Agreement

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FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: New Jersey State Laborers' PAC, MUR 5151
 and Robert S. Garrison, as treasurer

This matter was generated based on information ascertained by the Federal Election Commission ("Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2).

I. THE LAW

The Federal Election Campaign Act of 1971, as amended ("the Act"), provides that all political committees, other than authorized committees of a candidate, shall file a Year End Report covering the period beginning July 1 and ending December 31 no later than January 31 of the following calendar year. 2 U.S.C. § 434(a)(4)(A)(iv).

The Act also requires that political committees file a Statement of Organization which shall include, among other information, the name and address of the committee's treasurer. 2 U.S.C. § 433. Political committees that are not authorized by a candidate must report to the Commission any change in information previously submitted in a Statement of Organization no later than 10 days after the date of the change. 2 U.S.C. § 433(c).

II. THE FACTS

The New Jersey State Laborers' Political Action Committee/Laborers' Political League (NJSLPAC) ("the Committee") is a political committee that is not an authorized committee of a candidate. Robert S. Garrison is the current treasurer of the Committee.

The Committee and Mr. Garrison ("Respondents") failed to timely file the Committee's 1999 Year End Report of Receipts and Disbursements despite prior notices advising the

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Committee of the filing due date. Specifically, on December 30, 1998 and December 29, 1999, the Commission mailed notices to the Committee reminding it that the 1999 Year End Report was due no later than January 31, 2000. In addition, on February 24, 2000, a Non-Filer Notice was sent to the Committee via a mailgram. The Non-Filer Notice advised the Committee to immediately file the Year End Report.

On February 18, 2000, Mr. Robert Garrison, who identified himself as the Committee's new treasurer, spoke to an analyst in the Commission's Reports Analysis Division ("RAD") about filing requirements. Mr. Garrison advised the RAD analyst that the Committee's former long-time treasurer had passed away after an illness and acknowledged that the Committee had not yet filed the Year End Report. The analyst advised Mr. Garrison to file the report as soon as possible, to inform the Commission of the circumstances surrounding the late filing of the report, and to amend the Statement of Organization to reflect the change in Committee treasurers.

When the report had not been received by March 20, 2000, the RAD analyst phoned Mr. Garrison to remind him to file the report and warned him that the Committee was risking possible legal action by failing to do so. Mr. Garrison replied that the report, and a letter advising the Commission of the Committee's treasurer change, would probably be ready by March 22. When the report still had not been received by March 29, the RAD analyst again phoned Mr. Garrison about the report. Mr. Garrison was unavailable so the analyst left a message on his voicemail warning him of possible legal action if the report was not filed. Mr. Garrison, in turn, left a voicemail message for the analyst on March 30, stating that the report was ready to be sent. Finally, on April 3, when the analyst phoned to check that the report had

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been mailed, Mr. Garrison informed her that the report had been mailed on March 31, or April 1, 2000.

Respondents filed the 1999 Year End Report on April 3, 2000, disclosing \$395,997 in total receipts and \$367,785 in total disbursements.¹ In a cover letter accompanying the report, Mr. Garrison advised the Commission that the Committee's former treasurer had passed away unexpectedly leaving the PAC without someone familiar with the FEC filing process.² Mr. Garrison also informed the Commission that he had been appointed the new treasurer/administrator and had taken the time to learn the filing process. He also stated that the Committee's attorneys and accountants "have been made an integral part of the process" to ensure accurate and timely reporting in the future and noted that he and the Committee's attorney would attend an FEC training program in Washington, D.C. in April, 2000.

Respondents filed the Committee's 1999 Year End Report 63 days after the filing deadline. In addition, Respondents failed to timely inform the Commission of its change in treasurers. Therefore, there is reason to believe New Jersey State Laborers' PAC and Robert S. Garrison, as treasurer, violated 2 U.S.C. §§ 434(a)(4)(A)(iv) and 433(c).

¹ On September 5, 2000, the Committee filed an amended Year End Report reflecting an increase in total receipts, to \$399,480, but no change in total disbursements.

² According to an obituary in the Newark, New Jersey newspaper, The Star-Ledger, Mr. Sorge died on August 28, 1999.

MCCELROY, DEUTSCH & MULVANEY
ATTORNEYS AT LAW

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

1300 MOUNT KEMBLE AVENUE
P.O. BOX 2075
MORRISTOWN, NEW JERSEY 07962-2075
(973) 993-8100
FACSIMILE (973) 425-0161

DEC 7 3 18 PM '00

WALTER F. TIMPONE
Direct dial: (973) 425-8701
wtimpone@mdmlaw.com

December 5, 2000

Via Overnight Mail

Darryl R. Wold, Chairman
Federal Election Commission
999 E. Street, NW
Washington, D.C. 20463

Re: MUR 5151
NJ State Laborers' PAC
MDM No. N0068-1003

Dear Chairman Wold:

I submit this letter memorandum and the accompanying certification of Robert S. Garrison, Treasurer of NJ State Laborers' Political Action Committee ("Committee"), in opposition to the position taken by the Federal Election Commission ("Commission") in the above-referenced matter. The inability of Mr. Garrison and the Committee to timely comply with the reporting requirements of 2 U.S.C. §§ 434(a)(4)(A)(iv) and 433(c) is the result of unfortunate circumstances beyond the control of either party, and the imposition of any fiscal penalty by the Commission is inappropriate.

The Federal Election Campaign Act ("the Act") recognizes that political committees will at times be placed in situations that, despite the best efforts of the treasurer, do not allow for one-hundred-percent compliance with the Act's reporting requirements. In those circumstances, the best efforts of the treasurer will suffice. In this regard, the Act states:

When the treasurer of a political committee shows that best efforts have been used to obtain, maintain, and submit the information required by this Act for the political committee, any report or any records of such committee shall be considered in compliance with this Act

2 U.S.C. § 432(i); see also 11 C.F.R. 102.9(d).

As touched upon in the Commission's Factual and Legal Analysis served upon Mr. Garrison, and as more fully set forth in Mr. Garrison's Certification, the triggering event leading to the Committee's inability to timely comply with the Commission's reporting requirements was the sudden death of Frank Sorge. With his unexpected passing, the Committee lost both its

MCCELROY, DEUTSCH & MULVANEY

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long-time administrator and treasurer, and the only person having any real knowledge of the Committee's accounting procedures and report-filing requirements. That the new treasurer, Mr. Garrison, required time to familiarize himself with the accounting process, and that despite his best efforts he was not immediately able to meet all of the Committee's reporting obligations, are not reasons to punish.

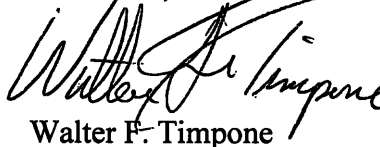
The reality is, such problems are to be expected when people unexpectedly pass away. Even where others do their best to pick up the pieces, some dilemmas are simply inescapable. Important, however, is recognizing that the problems here occurred because of circumstance, not design – and in the face of diligence, not sloth.

In the wake of a difficult loss, Mr. Garrison did his very best. To punish him or the Committee for submitting the Year End Report two months beyond the filing deadline, or for failing to timely inform the Commission of the Committee's change in treasurers, is unfair. Not only does it run afoul of section 432(i) of the Act, but it disregards the realities of life.

We respectfully request that the Commission reconsider its finding that New Jersey State Laborers' PAC and Robert S. Gerson, as Treasurer, violated 2 U.S.C. §§ 434(a)(4)(A)(iv) and 433(c).

Very truly yours,

MCCELROY, DEUTSCH & MULVANEY



Walter F. Timpone

Enclosures

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McElroy, Deutsch & Mulvaney
1300 Mount Kemble Avenue
P.O. Box 2075
Morristown, New Jersey 07962-2075
Attorneys for Robert S. Garrison

FEDERAL ELECTION COMMISSION

In re: MUR 5151,
New Jersey State Laborers' PAC

**CERTIFICATION OF
ROBERT S. GARRISON**

ROBERT S. GARRISON, duly sworn, deposes and says under the penalty of perjury:

1. I am the Treasurer of the New Jersey State Laborers' Political Action Committee ("Committee"). It is in response to the November 17, 2000 letter of Chairman Wold, in which he sets forth the position of the FEC ("Commission") concerning the delay of my office in meeting the reporting requirements of 2 U.S.C. §§ 434(a)(4)(A)(iv) and 433(c), that I submit this Certification.

2. I began assuming responsibility over the Committee's operations on August 1, 1999, under the guidance of Frank Sorge, the Committee's former long-time Administrator and Treasurer. Mr. Sorge had run the office for nearly ten years, and in that time developed a system of accounting and administration that, although adequate, was by today's standards somewhat outdated. As both Administrator and Treasurer, Mr. Sorge was the only person in the office who needed to use, and knew how to use, the office's computer and data entry system. On August 28, 1999, he unexpectedly passed away.

3. With his sudden passing, Mr. Sorge's responsibilities at the office were abruptly placed entirely on my shoulders. With less than a month's worth of experience at the office, I reacted by familiarizing myself with the accounting system he had developed and the duties with which he was charged. This involved wading through stacks of documents, sifting through years of FEC, ELEC and tax filings, and reviewing the numerous rules and requirements of the various

agencies to which the Committee must report. I was without the benefit of Mr. Sorge's years of experience, and the process of acquainting myself with both his record keeping and the office's reporting obligations was laborious and time-consuming.

4. Particularly troublesome was my inability to retrieve necessary data from Mr. Sorge's computer database. In attending to the office's more immediate reporting obligations, projects I knew Mr. Sorge had been working on at the time of his death, I needed to access data regarding the Committee's 1999 activities in order to generate the required reports. Without Mr. Sorge's assistance, that was impossible. A new computer system needed to be configured, all the data manually re-entered, and then the reports could be processed. This task alone set the office back nearly two months.

5. In January 2000, I received a notice from the Commission, dated December 29, 1999, advising that the 1999 Year End Report was due January 31, 2000. I had been the Committee's Treasurer for only a few months and, still not completely familiar with the Committee's many reporting obligations, I was hearing about this report for the first time.

6. Soon thereafter, I discovered that many of the documents needed to complete the FEC filing were not in our files, but with an accounting firm that Mr. Sorge had been using. Once it became clear that I would not be able to generate a complete and accurate Year End Report with the records available to me, I reached out to the Commission to explain the situation.

7. On February 18, 2000, I telephoned the Commission and spoke with Ms. Lucy Denny, the analyst referred to in the Commission's Factual and Legal Analysis. I informed her of Mr. Sorge's passing and fully explained my predicament. Ms. Denny appeared to understand the situation and informed only that I should submit the completed Year End Report as soon as possible. Never did we discuss amending the Statement of Organization, and at no time did she

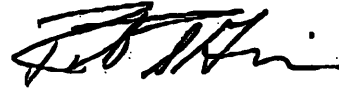
advise that I or the Committee would be subject to legal action and/or fiscal penalties as a result of our inability to timely file.

8. By March, despite my best efforts, I was still without the data required for filing our Year End Report. Notwithstanding my constant prodding, the accountant had not released all the pertinent records, and there remained significant gaps in the information I was able to salvage from Mr. Sorge's files, like records of the Committee's bond investments. On March 20, 2000, I again telephoned the Commission and spoke with Ms. Denny. I apologized for the continued delay and explained that there were still problems with missing information. Although I was not able to give her an exact date as to when the report would be completed, I informed her that I expected the missing information to be provided within the next few days and that I would submit the report immediately thereafter.

9. On March 30, 2000, and in response to a voicemail message she left for me, I telephoned Ms. Denny and left a voicemail informing that the missing information had been gathered and the completed 1999 Year End Report was ready to be mailed. By cover letter dated March 30, 2000, I explained again the problems encountered by the Committee and me with the unexpected passing of our former Treasurer and Administrator, apologized for the belated submission and explained that steps had been taken to ensure accurate and timely submissions in the future. (See attached). That I had indeed mailed the report to the Commission was later confirmed in a phone conference with Ms. Denny on April 3, 2000.

10. Since the death of Mr. Sorge, this office has been pushed to its limit to meet the Committee's reporting obligations on a timely basis. It has been over a year since Mr. Sorge passed away, and despite my best efforts, the diligence of my staff, the hard work of attorneys and accountants, and the implementation of our new computer system and accounting procedures, I am still trying to catch-up with all the office's obligations that were put on hold when we lost Mr.

Sorge. And while I cannot say with absolute certainty that there will be no more problems in the future, I can guarantee that we will continue to make every effort to meet the dictates of the Federal Election Campaign Act and to work together with the Commission in ensuring accurate and timely reporting as we go forward.



Robert S. Garrison

Sworn to before me this

5 day of December, 2000



Notary Public
PATRICK C BYRNE
AN ATTORNEY AT LAW OF NJ

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5164.304.40.12

**NEW JERSEY STATE LABORERS' POLITICAL ACTION COMMITTEE**

RAYMOND M. POCINO
Chairman

Administrative Committee
PATRICK C. BYRNE
E. FRANK DIANTONIO
JEFFREY FOSTER

Treasurer / Administrator
ROBERT S. GARRISON

March 30, 2000

Ms. Lucy Denny
Federal Election Committee
999 E Street, NW
Washington, DC 20463

Dear Ms. Denny:

Pursuant to our phone conversations, enclosed you will find the NJSLPAC FEC Report that was due in January. I apologize for the lateness of the report, but as I discussed with you, our former treasurer/administrator passed away unexpectedly, leaving the PAC without someone in the office familiar with the FEC filing process. I was appointed the new treasurer/administrator and have taken the time to learn the process and I am confident that this will never happen again. Also, our attorney and accountants have been made an integral part of the process to ensure a timely and accurate filing process for the future. In addition, both our attorney and myself will be present at next week's FEC training program in Washington, DC.

Should you have questions or comments, feel free to call me at the number listed below or on my cellular phone, 908-239-7704.

Thank you for your consideration and understanding with what has a very difficult situation.

Sincerely,

Robert S. Garrison
Treasurer/Administrator

21-04-403-4916

MUR 5151

NAME OF COUNSEL: Walter F. TimponeADDRESS: McElroy, Deutsch & Mulvaney1300 Mt. Kemble Avenue, P.O. Box 2075Morristown, New Jersey 07962TELEPHONE: 973-993-8100

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.

12/4/00
Date
SignatureRESPONDENT'S NAME: Robert S. GarrisonADDRESS: New Jersey State Laborers' Political Action Committee104 Interchange Plaza, Suite 301Monroe Twp., New Jersey 08831-2038HOME PHONE: 973-483-2071BUSINESS PHONE: 609-860-2233