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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

January 13, 2006

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

Re: MUR 5689

Dear Sir or Madam:

I represent Local Union 429 of the International Brotherhood of Electrical Workers ("Local 429"), the respondent in MUR 5689. I am writing on Local 429's behalf to explain that the complaint filed in this case does not identify a violation of the Act and that no action should therefore be taken against Local 429.

As I understand the substance of the complaint it is that Local 429 has solicited contributions to a separate segregated fund – the IBEW Local 429 COPE Fund – while stating on its LM-2 reports that a separate segregated fund sponsored by Local 429 does not exist and claiming that Local 429 has no filing requirements with the FEC because all political contributions collected from its members are paid directly to International Brotherhood of Electrical Workers Committee on Political Education ("IBEW COPE"), the separate segregated fund of Local 429's parent union, the International Brotherhood of Electrical Workers.

Local 429 is not the sponsor of a separate segregated fund. There is no separate segregated fund operated by Local 429 from which contributions are made to either state or federal candidates. Accordingly, Local 429 has neither registered such an entity with the FEC nor filed any reports on its behalf – because such an entity does not exist.

Local 429 is a collecting agent for IBEW COPE. It solicits and collects voluntary political contributions from its membership and transmits all of those funds to IBEW COPE. Local 429 represents employees in the construction industry and it operates a hiring hall. Most of the jobs to which it refers members are of relatively short duration. When members receive a referral from Local 429 they are

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employer on that job to deduct political contributions from their paychecks. The authorization, however, is not continuing. By its terms, it can be cancelled at any time, and it expires when the job ends. The process is repeated for each new job. To continue payroll deductions, a member must re-authorize them by re-signing a new payroll deduction card for each new job.

When employers deduct authorized contributions they are transmitted with other funds (union dues and contributions to various benefit funds) to the NECA Board #54 Trust Fund, which operates as clearing account. The contributions destined for IBEW COPE are then transmitted to Local 429 which deposits them in an account, called the IBEW Local 429 COPE Fund. Despite than name – which appears to be the source of confusion that led to the filing of the complaint in this MUR – that account has operated only as a transmittal account to separate and then forward to IBEW COPE contributions from members of Local 429. No contributions to candidates have ever been made from that account.

As an affiliate of the IBEW, Local 429 is entitled to act as a collecting agent for IBEW COPE. 11 C.F.R. § 102.6(b)(iv). And as a collecting agent, it has no obligation to register with or report to the FEC. *Id.* § 102.6(b)(2). Accordingly, despite the allegation in the complaint, Local 429 is not operating an unregistered political committee.

The complaint, moreover does not allege that any contributions were obtained by any means inconsistent with 11 C.F.R. § 114.5. The authorization cards themselves state that they can be cancelled at any time, that contributions are voluntary, and that any money received will be used for political purposes. Nevertheless, Local 429 recognizes that the language in the authorization card may me inartfully drafted. The fact that the card contains the name of the Local 429's transmittal account, IBEW Local 429 COPE Fund, rather than IBEW COPE, appears to have caused some confusion, at least by the complainant in this case.¹ Accordingly, Local 429 intends to replace the current language with the following:

¹ Neither the Act nor the regulations specifically require the authorization cards to include the specific name of the separate segregated fund to which contributions are being made. When, for example two companies merge and a new political committee is created as a result of the merger, the Commission has not required corporations to obtain new authorization cards correctly identifying the newly-formed and newly-named political committee to continue to deduct contributions. AO 1994-23. The Commission has also concluded that authorizations for payroll deduction can be transferred from a subsidiary to a parent corporation, even though the authorization forms identify the separate

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I hereby authorize the Company to deduct from my wages the sum of \$0.10 per hour for all compensated hours and to forward that amount to IBEW COPE via NECA Board #54 Trust Fund, 1909 12th Avenue, Nashville, Tennessee 37203. I understand that I am free to contribute more or less than the amount suggested. This authorization is signed voluntarily and with the understanding that the IBEW will use the money to make contributions and expenditures in connection with federal, state and local elections. I agree and understand that the deductions shall continue until cancelled by me, by written notice to the Company and to IBEW Local Union 429, or until I am terminated from employment. Contributions to IBEW COPE are not deductible as charitable contributions for federal income tax purposes.

Although the complaint does not challenge the language used in Local 429's authorization cards, these changes will bring Local 429 into full compliance with 11 C.F.R. § 114.5(a)(5) and eliminate any confusion about the identity of the separate segregated fund to which the contributions are being made. Because members sign new cards for each job, the newly drafted cards will completely replace the old ones in a short period of time.

For these reasons, Local 429 submits that the complaint does not state a violation and no reason exists to take any action against Local 429 based on that complaint.

Please feel free to contact me if you need any additional information.

Sincerely,

Sherman, Dunn, Cohen, Leifer & Yellig, P.C.

By: 
Robert D. Kurnick

segregated fund of the subsidiary, rather than that of the parent. AO 2003-06; AO 1991-19. In such cases, the critical issues are whether the contributions are voluntary and whether the political purpose of the contributions have been disclosed. In this case, the authorization cards state that the contributions are voluntary, and the complainant does not contend otherwise. The cards also state that contributions will be used for political purposes.

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