



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**JAN 12 2012.**

**Via First-Class Mail**

Leonard Orlando

Green Bay, WI 54302

RE: MUR 6515  
Leonard Orlando

Dear Mr. Orlando:

On August 5, 2011, Professional Fire Fighters of Wisconsin ("PFFW") notified the Commission of the possibility that PFFW, and former PFFW Executive Board officers, Tracy Aldrich, Robert Baird, Michael Drury, Richard Gale, John Gee, Troy Haase, Lance Hanson, Patrick Kilbane, Len Orlando, Ann Watzka f/k/a Ann Peggs and Michael Woodzicka, may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act") in connection with activity between 2002-2010.

After reviewing the submission, the Commission found reason to believe, on December 13, 2011, that PFFW and each of the above-named Executive Board Officers knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f, provisions of the Act, and 11 C.F.R. §§ 110.4(b)(i) and 114.2(b) of the Commission's regulations in connection with their reported 2002 to 2008 activity. The Commission also found reason to believe that PFFW and PFFW Executive Board officers Robert Baird, John Gee, and Lance Hanson violated 2 U.S.C. §§ 441b(a) and 441f and 11 C.F.R. §§ 110.4(b)(i) and 114.2(b) in connection with their reported 2009 to 2010 activity, and that Messrs. Baird, Gee and Hanson's 2009-2010 violations had been knowing and willful. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determinations.

Please note that PFFW and its former Executive Board officers have a legal obligation to preserve all documents, records and materials relating to this matter until notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519.

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In the meantime, 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. You may submit a written request for relevant information gathered by the Commission in the course of its investigation of this matter. See Agency Procedure for Disclosure of Documents and Information in the Enforcement Process, 76 Fed. Reg. 34986 (June 15, 2011).

We look forward to your response.

On behalf of the Commission,



Caroline C. Hunter  
Chair

Enclosures  
Factual and Legal Analysis

1 **FACTUAL AND LEGAL ANALYSIS**

2  
3 **MUR 6515**

4  
5 **RESPONDENT:**

6 **Len Orlando**

7 **I. INTRODUCTION**

8 This matter originated with a *sua sponte* submission made to the Federal Election  
9 Commission ("the Commission") by the Professional Fire Fighters of Wisconsin ("PFFW") and  
10 certain individuals who served as PFFW Executive Board officers at different points between  
11 2002 and 2010 (collectively referred to as "Respondents"). For the reasons set forth below, the  
12 Commission found that there was reason to believe that the Professional Fire Fighters of  
13 Wisconsin Executive Board officer Len Orlando knowingly and willfully violated 2 U.S.C.  
14 §§ 441b(a) and 441f; and 11 C.F.R. §§ 110.4(b)(ii) and (iii) and 114.2(e) with respect to federal  
15 contributions by PFFW from 2002 through 2008.

16 **II. FACTUAL SUMMARY**

17 PFFW, the statewide affiliate of the International Association of Fire Fighters ("IAFF"),  
18 reimbursed eleven of its officers for \$18,263.34 in contributions to IAFF's separate segregated  
19 fund, International Association of Firefighters Interested in Registration and Education PAC  
20 ("FIREPAC") between 2002-2010.

21 PFFW reimbursed the FIREPAC contributions in two ways. Between 2002 and 2008,  
22 with the authorization of the full Executive Board, PFFW reimbursed eleven officers for  
23 \$16,888.34 in FIREPAC contributions via claims they submitted for expenses related to fictitious  
24 "legislative meetings" in Madison, Wisconsin. Submission at 6-7. In 2009 and 2010, after the  
25 fictitious "legislative meetings" scheme ended, without the knowledge of the full Executive

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1 Board, PFFW reimbursed three officers for \$1,375 in FIREPAC contributions via claims they  
2 submitted for expenses related to conference registration fees that they never actually paid.

3 PFFW represents that it has 1) obtained repayments of all known amounts of the  
4 unlawfully reimbursed contributions; 2) notified its regional caucus and local unions about the  
5 improper expense payment practices; 3) notified FIREPAC of the unlawful reimbursements; and  
6 4) obtained the resignations of remaining Executive Board officers who received unlawful  
7 contribution reimbursements.

8 **A. The 2002-2008 Reimbursements**

9 PFFW is governed by an eleven officer Executive Board, all of whom are full-time  
10 firefighters. The officers are elected to staggered three-year terms at annual IAFF/PFFW state  
11 conventions. Submission at 3. Len Orlando was a PFFW Executive Board officer from 1994 to  
12 2010. During a January 2002 leadership retreat, PFFW's then existing Executive Board  
13 encouraged its officers to increase their FIREPAC contributions to a level that would also allow  
14 them to attend the IAFF annual conference without paying a registration fee. *Id.* When some  
15 Executive Board officers expressed concern about their ability to afford larger contributions to  
16 FIREPAC, the Executive Board agreed that "any officer who made such a contribution in order  
17 to attend the legislative conference would be able to submit an expense statement to the PFFW  
18 for two administrative days to be characterized as a 'legislative meeting' in Marlison  
19 [Wisconsin]." <sup>1</sup> *Id.* at 6-7. PFFW states that the "legislative meeting" contrivance was adopted  
20 in order to reduce, if not eliminate, the financial burden to Board members who made the larger  
21 contributions to FIREPAC instead of paying the registration fee to IAFF. *Id.* at 7. During  
22 similar retreats held during January or February of each successive year - with the exception of

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<sup>1</sup> Len Orlando was an Executive Board officer at the time the unlawful reimbursement scheme was created.

1 2004 when the topic was apparently not raised - PFFW designated similar "legislative meeting"  
2 dates as a vehicle for the reimbursement of that year's FIREPAC contributions by Executive  
3 Board officers.<sup>2</sup> *Id.* at 7.

4 PFFW asserts that the 2002 retreat was the first and last time that its Executive Board  
5 discussed this repayment practice in any depth, and the practice continued until 2008, "without  
6 legal review or operational analysis." Submission at 7. According to the declarations of the  
7 Executive Board officers, none of them considered the legal ramifications of the reimbursement  
8 program under the Act or other laws, and most, if not all, of those who participated in the 2002  
9 retreat had not seen IAFF or FIREPAC materials advising not to seek reimbursement for  
10 contributions in connection with attendance at the legislative conference. *Id.* at 7; *see also*  
11 Declarations.

12 PFFW argues that the 2002 agreement was not the product of any pre-retreat planning by  
13 any officer and there was no specific discussion about whether such practices complied with  
14 applicable laws or IAFF policies. Submission at 14. Nevertheless, all of the PFFW officers  
15 acknowledge that they made false claims for the reimbursement of expenses from fictitious  
16 "legislative meetings" as a means to obtain reimbursement of FIREPAC contributions.

17 In 2008, Michael Woodzicka replaced Richard Gale as PFFW President. Submission at  
18 7. In preparation for the 2009 retreat, Woodzicka reviewed PFFW's practices and procedures, as  
19 well as IAFF legislative conference registration materials stating that contributions to FIREPAC  
20 could not be reimbursed with union funds. Submission at 8; *see also* Woodzicka Declaration at  
21 ¶ 13. Woodzicka stopped the practice of making reimbursements for non-existent meetings

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<sup>2</sup> Although there were no designated "legislative meeting" dates in 2004, and therefore no reimbursements for contributions, the omission was noted at the 2005 retreat and the officers agreed to designate three days, rather than the customary two days, of "legislative meetings" in 2005 to compensate for the 2004 omission. *Id.* at 7.

1 because it was an "unwritten practice" and he believed that "there should be clear policies to  
2 ensure that Executive Board members were fairly reimbursed for legitimate expenses that they  
3 actually incurred on the PFFW's behalf." *Id.* Although Woodzicka ended the practice of  
4 scheduling fictitious legislative meetings in 2008, PFFW did not take any corrective action or  
5 consider self-reporting the improper reimbursements for more than a year.

6 **B. Corrective Actions**

7 In January 2010, Joseph Conway, an IAFF Vice-President, advised PFFW that he had  
8 learned of PFFW's improper reimbursements of FIREPAC contributions, and he asked what  
9 corrective actions PFFW would take. Submission at 16. In March 2010, PFFW consulted with  
10 counsel and established a "Special Committee" to review the expense payment practices and  
11 recommend a course of action. *Id.* After the Special Committee concluded its review, PFFW  
12 sent letters on April 10, 2010, to each of the eleven past and current Executive Board officers  
13 itemizing the amounts known to have been reimbursed between 2004 and 2008, inviting any  
14 corrections, asking for estimates of reimbursements between 2002 and 2003, and requesting  
15 repayment of all contribution reimbursements.<sup>3</sup> *Id.* at 9; *see also* Submission Attachments. All  
16 eleven Executive Board officers repaid at least the specific sums requested, and some paid  
17 additional amounts to reflect 2002 and 2003 contribution reimbursements.<sup>4</sup> *Id.*

<sup>3</sup> PFFW is unable to provide the exact reimbursement figures for 2002 and 2003 because in 2009, it shredded its pre-2005 financial records, including the expense statements submitted by PFFW officers. *Id.* at 8. While PFFW has the electronic Quickbook files for those years, they only record payments and not explanations of the purposes of payments to officers or others. *Id.* PFFW asserts that it shredded documents on the advice of its accountant, the shredding had nothing to do with the expense payment practice, and it happened before the internal review. *Id.*

<sup>4</sup> PFFW initially requested repayments from officers totaling \$14,193 but received a total of \$18,363.44 in repayments from those individuals. The increased amount represents the reimbursement amounts totaling \$2,497.42 from individual Executive Board officers who had their own documentation or notation of reimbursements during 2002 and 2003 plus \$1,375 from individual Executive Board officers who used other means to cause PFFW to reimburse FIREPAC contributions made in 2009-2010.

**C. Summary**

PFFW's payments to reimburse Executive Board officers for FIREPAC contributions are summarized below.

| Executive Board Officers | Estimated Officer Reimbursement Amts. for 2002 and 2003 | Officer Reimbursement Amts. for 2005-2008 | Officer Reimbursement Amts. for 2009-2010 | Total amt. repaid by Officers for 2002-2010 |
|--------------------------|---|---|---|---|
| Aldrich                  | \$0   | \$1,027.70                                | n/a                                       | \$1,027.70                                  |
| Drury                    | \$837.71  | \$2,162.29                                | \$0                                       | \$3,000                                     |
| Gee                      | \$443.66  | \$1,956.34                                | \$475                                     | \$2,875                                     |
| Hanson                   | \$131.11  | \$2,068.89                                | \$475                                     | \$2,675                                     |
| Orlando                  | n/a   | \$678.45                                  | n/a                                       | \$678.45                                    |
| Woodzicka                | \$56.53   | \$1,100                                   | \$0                                       | \$1,156.53                                  |
| <b>TOTALS</b>            | <b>\$2,497.42</b>                                       | <b>\$14,391.02</b>                        | <b>\$1,375</b>                            | <b>\$18,263.34</b>                          |

**III. LEGAL ANALYSIS**

The Federal Election Campaign Act of 1971, as amended ("Act") prohibits a labor organization from making a contribution in connection with any election and any officer of any labor organization from consenting to any contribution by the labor organization. 2 U.S.C. § 441b(a) and 11 C.F.R. 114.2(e). The Act further provides that "no person shall make a contribution in the name of another person." 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(i). The prohibition extends to knowingly permitting one's name to be used to effect the making of contribution in the name of another or knowingly helping or assisting any person in making a contribution in the name of another. 11 C.F.R. § 110.4(b)(ii) and (iii). The Commission's Explanation and Justification ("E&J") states that "knowingly helping or assisting" applies to "those who initiate or instigate or have some significant participation in a plan or scheme to



1 make a contribution in the name of another . . . .” E&J for 11 C.F.R. § 110.4 at 54 Fed. Reg.  
2 34,105 (Aug. 17, 1989).

3 The Act also addresses violations of law that are knowing and willful. *See* 2 U.S.C.  
4 §§ 437g(a)(5)(B) and 437g(d). The knowing and willful standard requires knowledge that one is  
5 violating the law. *Federal Election Commission v. John A. Dramei for Congress Committee*,  
6 640 F. Supp. 985, 987 (D. N.J. 1986). A knowing and willful violation may be established “by  
7 proof that the defendant acted deliberately and with knowledge that the representation was  
8 false.” *United States v. Hopkins*, 916 F.2d 207, 214 (5<sup>th</sup> Cir. 1990). Evidence does not have to  
9 show that the defendant had a specific knowledge of the regulations; an inference of knowing  
10 and willful conduct may be drawn from the defendant’s scheme to disguise the source of funds  
11 used in illegal activities. *Id.* at 213-15.

12 A. PFFW & Executive Board Officers/Conduits

13 The expense reimbursement scheme that PFFW began in 2002 designated two days per  
14 year for “legislative meetings” that never took place and allowed the Executive Board officers to  
15 be reimbursed for their FIREPAC contributions by claiming expenses incurred in connection  
16 with these fictional meetings. Submission at 6-7. Between 2002 and 2008, PFFW disbursed  
17 \$16,888.34 to reimburse FIREPAC contributions. *Id.* at 3. In addition, between 2009 and 2010,  
18 PFFW disbursed \$1,375 to reimburse FIREPAC contributions. *Id.* at 10-12.

19 The individual respondents were officers of PFFW who consented to the use of  
20 prohibited labor union treasury funds to reimburse FIREPAC contributions, allowed their names  
21 to be used to make these contributions, and knowingly helped or assisted in the making of  
22 contributions in the names of others. While the Commission frequently takes no action as to

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subordinate conduits responding to pressure from their employer/superior, the Commission has pursued officers who consented to and assisted in the use of corporate or union funds to make reimbursements.<sup>5</sup> See MUR 5357 (Centex) (the Commission approved reason to believe findings against the corporation and the officers for making and consenting to the use of prohibited funds to make contributions in the names of others).

Accordingly, the Commission found reason to believe that Leonard Orlando violated 2 U.S.C. §§ 441b(a), 441f, and 11 C.F.R. §§ 110.4(b)(ii) and (iii) and 114.2(e) by consenting to the use of prohibited labor union treasury funds to make contributions in the names of others, by permitting his/her name to be used to make contributions in the name of another, and by knowingly helping or assisting the PFFW in the making of contributions in the names of others.

**B. Knowing and Willful**

**1. 2002 through 2008 Reimbursement Scheme**

The individual Executive Board officers concealed the 2002-2008 reimbursements by authorizing the officers to claim expenses for fictitious "legislative meetings." The individual officers claim there was no pre-planning or discussion about whether such practices would comply with the Act or IAFF policy. But, the Executive Board went to considerable lengths to conceal the reimbursements over a number of years by allowing its officers to be reimbursed for expense vouchers they knew were false. PFFW acknowledges that the Executive Board had the option of revising its existing policies to provide for legitimate reimbursement for the officers' time and efforts. Submission at 7. Instead, it chose a false method to reimburse itself for the

<sup>5</sup> There is no information that these officers were coerced into agreeing to this scheme. In fact, it appears that there were some Executive Board officers who never participated in the reimbursement scheme. The Submission states that at different times between 2002 and 2008, there were four additional Executive Board officers who did not seek reimbursement payments under the expense payment practice. Submission at 16. However, the Submission does not identify these individuals and is silent as to whether they consented to the use of the union's treasury funds to make contributions in the name of another. *Id.* Given the circumstances, including the impending statute of limitations, the Commission declined to take any action as to these four unnamed Executive Board officers.

1 FIREPAC contributions. Thus, even if Respondents were not aware of the Act's specific  
2 prohibitions, Respondents' use of fictitious "legislative meetings" to conceal the reimbursements  
3 strongly suggests they knew that the reimbursements were improper. *United States v. Hopkins*,  
4 916 F.2d 207, 214 (5<sup>th</sup> Cir. 1990).

5 Accordingly, the Commission found that Len Orlando's violations of 2 U.S.C. §§ 441b(a)  
6 and 441f and 11 C.F.R. §§ 110.4(b)(ii) - (iii) and 114.2(e) from 2002 to 2008 were knowing and  
7 willful.