



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**Via Facsimile & First Class Mail**  
414-272-8191

**JAN 12 2012**

Robert H. Friebert, Esq.  
Christopher M. Meuler, Esq.  
Friebert, Finerty, & St. John, S.C.  
330 East Kilbourn Avenue  
Milwaukee, WI 53202

RE: MUR 6515  
Robert Baird  
Michael Drury  
Richard Gale  
John Gee  
Troy Haase  
Lance Hanson  
Michael Woodzicka

Dear Messrs. Friebert and Meuler:

On August 5, 2011, Professional Fire Fighters of Wisconsin ("PFFW") notified the Federal Election Commission 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 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)(ii), (iii) and 114.2(e) of the Commission's regulations in connection with their reported 2002 to 2008 activity. The Commission also found reason to believe that PFFW Executive Board officers Robert G. Baird, John C. Gee and Lance A. Hanson violated 2 U.S.C. §§ 441b(a) and 441f and 11 C.F.R. §§ 110.4(b)(ii), (iii) and 114.2(e) in connection with their reported 2009 and 2010 activity, and that Messrs. Baird, Gee and Hanson's 2009-2010 violations had been knowing and willful. Enclosed are the Factual and Legal Analyses that set forth the basis for the Commission's determination.

Robert H. Friebert, Esq.  
Christopher M. Meuler, Esq.  
MUR 6515 (Professional Fire Fighters of Wisconsin *et al.*)  
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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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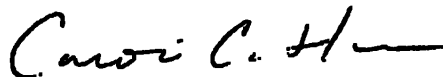
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In the meantime, this matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. You may submit a written request for relevant 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).

Robert H. Frieber, Esq.  
Christopher M. Meuler, Esq.  
MUR 6515 (Professional Fire Fighters of Wisconsin *et al.*)  
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We look forward to your response.

On behalf of the Commission,



Caroline C. Hunter  
Chair

Enclosures  
Factual and Legal Analyses

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1 **FACTUAL AND LEGAL ANALYSIS**

2  
3 **MUR 6515**

4  
5 **RESPONDENT:**

**Robert G. Baird**

6  
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 Robert G. Baird 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. Robert G. Baird was a PFFW Executive Board officer from  
12 1999 to 2011. 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 Madison  
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> Robert G. Baird was an Executive Board officer at the time the unlawful reimbursement scheme was created.

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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. 2009-2010 Reimbursements**

7 During the course of preparing this Submission, PFFW learned that it also had  
8 reimbursed three Executive Board officers -- Baird, Gee, and Hanson -- for \$1,375 in FIREPAC  
9 contributions made in 2009-2010. Submission at 10. Baird, Gee, and Hanson state that they  
10 made \$500 contributions each to FIREPAC in March 2009 and February 2010 in connection  
11 with the 2009 and 2010 IAFF legislative conferences. By making the \$500 contributions to  
12 FIREPAC, IAFF waived their registration fees. However, Baird, Gee, and Hanson submitted  
13 expense claims requesting reimbursement of the conference registration fees they had not  
14 actually paid in order to be reimbursed for their contributions. *Id.* at 10-11; *see also* Baird, Gee,  
15 and Hanson Declarations. PFFW admits that it effectively reimbursed these 2009-2010  
16 FIREPAC contributions, but asserts that no Executive Board officer, other than the three officers  
17 submitting the claims, was aware that the \$425 and \$475 registration fees had not been paid. *Id.*  
18 at 2, 10-11.

19 **C. Corrective Actions**

20 In January 2010, Joseph Conway, an IAFF Vice-President, advised PFFW that he had  
21 learned of PFFW's improper reimbursements of FIREPAC contributions, and he asked what  
22 corrective actions PFFW would take. Submission at 16. In March 2010, PFFW consulted with  
23 counsel and established a "Special Committee" to review the expense payment practices and



1 recommend a course of action. *Id.* After the Special Committee concluded its review, PFFW  
2 sent letters on April 10, 2010, to each of the eleven past and current Executive Board officers  
3 itemizing the amounts known to have been reimbursed between 2004 and 2008, inviting any  
4 corrections, asking for estimates of reimbursements between 2002 and 2003, and requesting  
5 repayment of all contribution reimbursements.<sup>3</sup> *Id.* at 9; *see also* Submission Attachments. All  
6 eleven Executive Board officers repaid at least the specific sums requested, and some paid  
7 additional amounts to reflect 2002 and 2003 contribution reimbursements.<sup>4</sup> *Id.*

8 **D. Summary**

9 PFFW's payments to reimburse Executive Board officers for FIREPAC contributions are  
10 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	\$.00	\$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>

<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 \$18,263.44 in repayments from these individuals. The increased amount represents the reimbursement amounts totaling \$2,497.42 from individual Executive Board officers who had their own documentation or estimates 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.

1    **III.    LEGAL ANALYSIS**

2            The Federal Election Campaign Act of 1971, as amended ("Act") prohibits a labor  
3    organization from making a contribution in connection with any election and any officer of any  
4    labor organization from consenting to any contribution by the labor organization. 2 U.S.C.  
5    § 441b(a) and 11 C.F.R. 114.2(e). The Act further provides that "no person shall make a  
6    contribution in the name of another person." 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(i). The  
7    prohibition extends to knowingly permitting one's name to be used to effect the making of  
8    contribution in the name of another or knowingly helping or assisting any person in making a  
9    contribution in the name of another. 11 C.F.R. § 110.4(b)(ii) and (iii). The Commission's  
10   Explanation and Justification ("E&J") states that "knowingly helping or assisting" applies to  
11   "those who initiate or instigate or have some significant participation in a plan or scheme to  
12   make a contribution in the name of another . . . ." E&J for 11 C.F.R. § 110.4 at 54 Fed. Reg.  
13   34,105 (Aug. 17, 1989).

14           The Act also addresses violations of law that are knowing and willful. *See* 2 U.S.C.  
15   §§ 437g(a)(5)(B) and 437g(d). The knowing and willful standard requires knowledge that one is  
16   violating the law. *Federal Election Commission v. John A. Dramei for Congress Committee*,  
17   640 F. Supp. 985, 987 (D. N.J. 1986). A knowing and willful violation may be established "by  
18   proof that the defendant acted deliberately and with knowledge that the representation was  
19   false." *United States v. Hopkins*, 916 F.2d 207, 214 (5<sup>th</sup> Cir. 1990). Evidence does not have to  
20   show that the defendant had a specific knowledge of the regulations; an inference of knowing  
21   and willful conduct may be drawn from the defendant's scheme to disguise the source of funds  
22   used in illegal activities. *Id.* at 213-15.

1           **A.     PFFW & Executive Board Officers/Conduits**

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

8           The individual respondents were officers of PFFW who consented to the use of  
9     prohibited labor union treasury funds to reimburse FIREPAC contributions, allowed their names  
10    to be used to make these contributions, and knowingly helped or assisted in the making of  
11    contributions in the names of others. While the Commission frequently takes no action as to  
12    subordinate conduits responding to pressure from their employer/superior, the Commission has  
13    pursued officers who consented to and assisted in the use of corporate or union funds to make  
14    reimbursements.<sup>5</sup> See MUR 5357 (Centex) (the Commission approved reason to believe  
15    findings against the corporation and the officers for making and consenting to the use of  
16    prohibited funds to make contributions in the names of others).

17           Accordingly, the Commission found reason to believe that Robert G. Baird violated  
18    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  
19    the use of prohibited labor union treasury funds to make contributions in the names of others, by  
20    permitting his/her name to be used to make contributions in the name of another, and by

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<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.

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1 knowingly helping or assisting the PFFW in the making of contributions in the names of others.

2 **B. Knowing and Willful**

3 **1. 2002 through 2008 Reimbursement Scheme**

4 The individual Executive Board officers concealed the 2002-2008 reimbursements by  
5 authorizing the officers to claim expenses for fictitious "legislative meetings." The individual  
6 officers claim there was no pre-planning or discussion about whether such practices would  
7 comply with the Act or IAFF policy. But, the Executive Board went to considerable lengths to  
8 conceal the reimbursements over a number of years by allowing its officers to be reimbursed for  
9 expense vouchers they knew were false. PFFW acknowledges that the Executive Board had the  
10 option of revising its existing policies to provide for legitimate reimbursement for the officers'  
11 time and efforts. Submission at 7. Instead, it chose a false method to reimburse itself for the  
12 FIREPAC contributions. Thus, even if Respondents were not aware of the Act's specific  
13 prohibitions, Respondents' use of fictitious "legislative meetings" to conceal the reimbursements  
14 strongly suggests they knew that the reimbursements were improper. *United States v. Hopkins*,  
15 916 F.2d 207, 214 (3<sup>rd</sup> Cir. 1990).

16 Accordingly, the Commission found reason to believe that Robert G. Baird's violations  
17 of 2 U.S.C. §§ 441b(a) and 441f and 11 C.F.R. §§ 110.4(b)(ii) - (iii) and 114.2(e) from 2002  
18 to 2008 were knowing and willful.

19 **2. 2009 and 2010 Contribution Reimbursements**

20 In 2009 and 2010, three Executive Board officers, including Robert G. Baird, received  
21 contribution reimbursements after PFFW had ended its 2002-2008 expense payment practice.  
22 These individuals caused PFFW to reimburse their FIREPAC contributions by claiming to have  
23 paid IAFF conference registration fees that had actually been waived.

1           As Executive Board officers, these individuals caused PFFW to use prohibited labor  
2 union general treasury funds to make contributions in the names of others and consented to the  
3 use of those prohibited funds to make contributions in the names of others. In addition, these  
4 Executive Board officers permitted their names to be used to make contributions in the names of  
5 others and knowingly helped or assisted PFFW to make those contributions in the names of  
6 others.

7           PFFW's decision in late 2008 to stop the "legislative meetings" reimbursement scheme  
8 should have put these three officers on notice that the FIREPAC contributions could not be  
9 reimbursed. Although the three PFFW Executive Board officers did not pay the fees, they  
10 appear to have believed that they were entitled to reimbursement of registration fees IAFF  
11 waived as a result of the FIREPAC contributions nominally made from their personal funds.  
12 PFFW acknowledges that its payment of these claims resulted in the reimbursement of the  
13 FIREPAC contributions. Submission at 10 and attached Declarations. The three officers have  
14 offered no reasonable explanation for their conduct. *See* Declarations.

15           Accordingly, the Commission found that Robert G. Baird's violations of 2 U.S.C.  
16 §§ 441b(a) and 441f and 11 C.F.R. §§ 110.4(b)(ii) - (iii) and 114.2(e) for the 2009 contribution  
17 reimbursement was knowing and willful.

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1 **FACTUAL AND LEGAL ANALYSIS**

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3 **MUR 6515**

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5 **RESPONDENT:**

**Michael Drury**

6  
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 Michael Drury 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  
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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

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 2002-2009 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. Michael Drury was a PFFW Executive Board officer from  
12 1996 to 2011. 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 Madison  
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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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  
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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  
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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  
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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.*

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**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	\$131.71	\$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

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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. Dramesi 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

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

6 Accordingly, the Commission found reason to believe that Michael Drury violated  
7 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  
8 the use of prohibited labor union treasury funds to make contributions in the names of others, by  
9 permitting his/her name to be used to make contributions in the name of another, and by  
10 knowingly helping or assisting the PFFW in the making of contributions in the names of others.

11 **B. Knowing and Willful**

12 **1. 2002 through 2008 Reimbursement Scheme**

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

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<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 Michael Drury's violations of 2 U.S.C.  
6 §§ 441b(a) and 441f and 11 C.F.R. §§ 110.4(b)(ii) - (iii) and 114.2(e) from 2002 to 2008 were  
7 knowing and willful.

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1 **FACTUAL AND LEGAL ANALYSIS**

2  
3 **MUR 6515**

4  
5 **RESPONDENT:**

6 **Richard F. Gale**

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 Richard F. Gale 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

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. Richard F. Gale was a PFFW Executive Board officer from  
12 1987 to 2008. 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 Madison  
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> Richard F. Gale 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 \$18,263.44 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 attention 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. Dramesi 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

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

6 Accordingly, the Commission found reason to believe that Richard F. Gale violated  
7 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  
8 the use of prohibited labor union treasury funds to make contributions in the names of others, by  
9 permitting his/her name to be used to make contributions in the name of another, and by  
10 knowingly helping or assisting the PFFW in the making of contributions in the names of others.

11 **B. Knowing and Willful**

12 **1. 2002 through 2008 Reimbursement Scheme**

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

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<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 Richard Gale's violations of 2 U.S.C.  
6 §§ 441b(a) and 441f and 11 C.F.R. §§ 110.4(b)(ii) - (iii) and 114.2(e) from 2002 to 2008 were  
7 knowing and willful.

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1 **FACTUAL AND LEGAL ANALYSIS**

2  
3 **MUR 6515**

4  
5 **RESPONDENT:**

John C. Gee

6  
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 John C. Gee 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 and also violated 2 U.S.C. §§ 441b(a) and 441f  
16 and 11 C.F.R. §§ 110.4(b)(ii) and (iii) and 114.2(e) with respect to federal contributions  
17 reimbursed by PFFW from 2009 through 2010.

18 **II. FACTUAL SUMMARY**

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

23 PFFW reimbursed the FIREPAC contributions in two ways. Between 2002 and 2008,  
24 with the authorization of the full Executive Board, PFFW reimbursed eleven officers for  
25 \$16,888.34 in FIREPAC contributions via claims they submitted for expenses related to fictitious  
26 "legislative meetings" in Madison, Wisconsin. Submission at 6-7. In 2009 and 2010, after the

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1 fictitious "legislative meetings" scheme ended, without the knowledge of the full Executive  
2 Board, PFFW reimbursed three officers for \$1,375 in FIREPAC contributions via claims they  
3 submitted for expenses related to conference registration fees that they never actually paid.

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

9 A. The 2002-2008 Reimbursements

10 PFFW is governed by an eleven officer Executive Board, all of whom are full-time  
11 firefighters. The officers are elected to staggered three-year terms at annual IAFF/PFFW state  
12 conventions. Submission at 3. John C. Gee was a PFFW Executive Board officer from 1999 to  
13 2011. During a January 2002 leadership retreat, PFFW's then existing Executive Board  
14 encouraged its officers to increase their FIREPAC contributions to a level that would also allow  
15 them to attend the IAFF annual conference without paying a registration fee. *Id.* When some  
16 Executive Board officers expressed concern about their ability to afford larger contributions to  
17 FIREPAC, the Executive Board agreed that "any officer who made such a contribution in order  
18 to attend the legislative conference would be able to submit an expense statement to the PFFW  
19 for two administrative days to be characterized as a 'legislative meeting' in Madison  
20 [Wisconsin]." <sup>1</sup> *Id.* at 6-7. PFFW states that the "legislative meeting" contrivance was adopted  
21 in order to reduce, if not eliminate, the financial burden to Board members who made the larger  
22 contributions to FIREPAC instead of paying the registration fee to IAFF. *Id.* at 7. During

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<sup>1</sup> John C. Gee was an Executive Board officer at the time the unlawful reimbursement scheme was created.

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

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

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

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

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

7 **B. 2009-2010 Reimbursements**

8 During the course of preparing this Submission, PFFW learned that it also had  
9 reimbursed three Executive Board officers -- Baird, Gee, and Hanson -- for \$1,375 in FIREPAC  
10 contributions made in 2009-2010. Submission at 10. Baird, Gee, and Hanson state that they  
11 made \$500 contributions each to FIREPAC in March 2009 and February 2010 in connection  
12 with the 2009 and 2010 IAFF legislative conferences. By making the \$500 contributions to  
13 FIREPAC, IAFF waived their registration fees. However, Baird, Gee, and Hanson submitted  
14 expense claims requesting reimbursement of the conference registration fees they had not  
15 actually paid in order to be reimbursed for their contributions. *Id.* at 10-11; *see also* Baird, Gee,  
16 and Hanson Declarations. PFFW admits that it effectively reimbursed these 2009-2010  
17 FIREPAC contributions, but asserts that no Executive Board officer, other than the three officers  
18 submitting the claims, was aware that the \$425 and \$475 registration fees had not been paid. *Id.*  
19 at 2, 10-11.

20 **C. Corrective Actions**

21 In January 2010, Joseph Conway, an IAFF Vice-President, advised PFFW that he had  
22 learned of PFFW's improper reimbursements of FIREPAC contributions, and he asked what  
23 corrective actions PFFW would take. Submission at 16. In March 2010, PFFW consulted with

counsel and established a "Special Committee" to review the expense payment practices and recommend a course of action. *Id.* After the Special Committee concluded its review, PFFW sent letters on April 10, 2010, to each of the eleven past and current Executive Board officers itemizing the amounts known to have been reimbursed between 2004 and 2008, inviting any corrections, asking for estimates of reimbursements between 2002 and 2003, and requesting repayment of all contribution reimbursements.<sup>3</sup> *Id.* at 5; *see also* Submission Attachments. All eleven Executive Board officers repaid at least the specific sums requested, and some paid additional amounts to reflect 2002 and 2003 contribution reimbursements.<sup>4</sup> *Id.*

#### D. Summary

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

Executive Board Officers	Estimated Officer Reimbursement Amt. for 2002 and 2003	Officer Reimb. Amts. for 2005-2008	Officer Reimbursement Amt. for 2009-2010	Total amt. repaid for 2002-2010
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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>

<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 \$18,263.44 in repayments from those individuals. The incurred amount represents the reimbursement amounts totaling \$2,497.42 from individual Executive Board officers who had their own documentation or estimates 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.

1    **III.    LEGAL ANALYSIS**

2            The Federal Election Campaign Act of 1971, as amended ("Act") prohibits a labor  
3 organization from making a contribution in connection with any election and any officer of any  
4 labor organization from consenting to any contribution by the labor organization. 2 U.S.C.  
5 § 441b(a) and 11 C.F.R. 114.2(e). The Act further provides that "no person shall make a  
6 contribution in the name of another person." 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(i). The  
7 prohibition extends to knowingly permitting one's name to be used to effect the making of  
8 contribution in the name of another or knowingly helping or assisting any person in making a  
9 contribution in the name of another. 11 C.F.R. § 110.4(b)(ii) and (iii). The Commission's  
10 Explanation and Justification ("E&J") states that "knowingly helping or assisting" applies to  
11 "those who initiate or instigate or have some significant participation in a plan or scheme to  
12 make a contribution in the name of another . . . ." E&J for 11 C.F.R. § 110.4 at 54 Fed. Reg.  
13 34,105 (Aug. 17, 1989).

14            The Act also addresses violations of law that are knowing and willful. *See* 2 U.S.C.  
15 §§ 437g(a)(5)(B) and 437g(d). The knowing and willful standard requires knowledge that one is  
16 violating the law. *Federal Election Commission v. John A. Dramei for Congress Committee*,  
17 640 F. Supp. 985, 987 (D. N.J. 1986). A knowing and willful violation may be established "by  
18 proof that the defendant acted deliberately and with knowledge that the representation was  
19 false." *United States v. Hopkins*, 916 F.2d 207, 214 (5<sup>th</sup> Cir. 1990). Evidence does not have to  
20 show that the defendant had a specific knowledge of the regulations; an inference of knowing  
21 and willful conduct may be drawn from the defendant's scheme to disguise the source of funds  
22 used in illegal activities. *Id.* at 213-15.

1           **A.     PFFW & Executive Board Officers/Conduits**

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

8           The individual respondents were officers of PFFW who consented to the use of  
9 prohibited labor union treasury funds to reimburse FIREPAC contributions, allowed their names  
10 to be used to make these contributions, and knowingly helped or assisted in the making of  
11 contributions in the names of others. While the Commission frequently takes no action as to  
12 subordinate conduits responding to pressure from their employer/superior, the Commission has  
13 pursued officers who consented to and assisted in the use of corporate or union funds to make  
14 reimbursements.<sup>3</sup> See MUR 5357 (Centex) (the Commission approved reason to believe  
15 findings against the corporation and the officers for making and consenting to the use of  
16 prohibited funds to make contributions in the names of others).

17           Accordingly, the Commission found reason to believe that John C. Gee violated  
18 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  
19 the use of prohibited labor union treasury funds to make contributions in the names of others, by  
20 permitting his/her name to be used to make contributions in the name of another, and by

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<sup>3</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 knowingly helping or assisting the PFFW in the making of contributions in the names of others.

2 **B. Knowing and Willful**

3 **1. 2002 through 2008 Reimbursement Scheme**

4 The individual Executive Board officers concealed the 2002-2008 reimbursements by  
5 authorizing the officers to claim expenses for fictitious "legislative meetings." The individual  
6 officers claim there was no pre-planning or discussion about whether such practices would  
7 comply with the Act or IAFF policy. But, the Executive Board went to considerable lengths to  
8 conceal the reimbursements over a number of years by allowing its officers to be reimbursed for  
9 expense vouchers they knew were false. PFFW acknowledges that the Executive Board had the  
10 option of revising its existing policies to provide for legitimate reimbursement for the officers'  
11 time and efforts. Submission at 7. Instead, it chose a false method to reimburse itself for the  
12 FIREPAC contributions. Thus, even if Respondents were not aware of the Act's specific  
13 prohibitions, Respondents' use of fictitious "legislative meetings" to conceal the reimbursements  
14 strongly suggests they knew that the reimbursements were improper. *United States v. Hopkins*,  
15 916 F.2d 207, 214 (5<sup>th</sup> Cir. 1990).

16 Accordingly, the Commission found that John C. Gee's violations of 2 U.S.C. §§ 441b(a)  
17 and 441f and 11 C.F.R. §§ 110.4(b)(ii) - (iii) and 114.2(e) from 2002 to 2008 were knowing and  
18 willful.

19 **2. 2009 and 2010 Contribution Reimbursements**

20 In 2009 and 2010, three Executive Board officers, including John C. Gee, received  
21 contribution reimbursements after PFFW had ended its 2002-2008 expense payment practice.  
22 These individuals caused PFFW to reimburse their FIREPAC contributions by claiming to have  
23 paid IAFF conference registration fees that had actually been waived.

1           As Executive Board officers, these individuals caused PFFW to use prohibited labor  
2 union general treasury funds to make contributions in the names of others and consented to the  
3 use of those prohibited funds to make contributions in the names of others. In addition, these  
4 Executive Board officers permitted their names to be used to make contributions in the names of  
5 others and knowingly helped or assisted PFFW to make those contributions in the names of  
6 others.

7           PFFW's decision in late 2008 to stop the "legislative meetings" reimbursement scheme  
8 should have put these three officers on notice that the FIREPAC contributions could not be  
9 reimbursed. Although the three PFFW Executive Board officers did not pay the fees, they  
10 appear to have believed that they were entitled to reimbursement of registration fees IAFF  
11 waived as a result of the FIREPAC contributions nominally made from their personal funds.  
12 PFFW acknowledges that its payment of these claims resulted in the reimbursement of the  
13 FIREPAC contributions. Submission at 10 and attached Declarations. The three officers have  
14 offered no reasonable explanation for their conduct. *See* Declarations. Accordingly, the  
15 Commission found that John Gee's violations of 2 U.S.C. §§ 441b(a) and 441f and 11 C.F.R.  
16 §§ 110.4(b)(ii) - (iii) and 114.2(e) for the 2010 contribution reimbursement was knowing and  
17 willful.

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**FACTUAL AND LEGAL ANALYSIS**

**MUR 6515**

**RESPONDENT:**

**Troy W. Haase**

**I. INTRODUCTION**

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

**II. FACTUAL SUMMARY**

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

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

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. Troy W. Haase was a PFFW Executive Board officer from 2006  
12 to 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 Madison  
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> Troy W. Haase was not 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 \$18,263.44 in repayments from those individuals. The incremental amount represents the reimbursement amounts totaling \$2,497.42 from individual Executive Board officers who had their own documentation or estimates 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.

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**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
Baird	\$614.50	\$1,027.70	\$475	\$3,117.20
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. Dramesi 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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1 subordinate conduits responding to pressure from their employer/superior, the Commission has  
2 pursued officers who consented to and assisted in the use of corporate or union funds to make  
3 reimbursements.<sup>5</sup> See MUR 5357 (Centex) (the Commission approved reason to believe  
4 findings against the corporation and the officers for making and consenting to the use of  
5 prohibited funds to make contributions in the names of others).

6 Accordingly, the Commission found reason to believe that Troy Haase violated  
7 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  
8 the use of prohibited labor union treasury funds to make contributions in the names of others, by  
9 permitting his/her name to be used to make contributions in the name of another, and by  
10 knowingly helping or assisting the PFFW in the making of contributions in the names of others.

11 **B. Knowing and Willful**

12 **1. 2002 through 2008 Reimbursement Scheme**

13 The individual Executive Board officers concealed the 2002-2008 reimbursements by  
14 authorizing the officers to claim expenses for fictitious "legislative meetings." The individual  
15 officers claim there was no pre-planning or discussion about whether such practices would  
16 comply with the Act or IAFF policy. But, the Executive Board went to considerable lengths to  
17 conceal the reimbursements over a number of years by allowing its officers to be reimbursed for  
18 expense vouchers they knew were false. PFFW acknowledges that the Executive Board had the  
19 option of revising its existing policies to provide for legitimate reimbursement for the officers'  
20 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 Troy Haase'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.

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**FACTUAL AND LEGAL ANALYSIS****MUR 6515****RESPONDENT:****Lance A. Hanson****I. INTRODUCTION**

This matter originated with a *sua sponte* submission made to the Federal Election Commission ("the Commission") by the Professional Fire Fighters of Wisconsin ("PFFW") and certain individuals who served as PFFW Executive Board officers at different points between 2002 and 2010 (collectively referred to as "Respondents"). For the reasons set forth below, the Commission found that there was reason to believe that the Professional Fire Fighters of Wisconsin Executive Board officer Lance A. Hanson knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f; and 11 C.F.R. §§ 110.4(b)(ii) and (iii) and 114.2(e) with respect to federal contributions by PFFW from 2002 through 2008 and also violated 2 U.S.C. §§ 441b(a) and 441f and 11 C.F.R. §§ 110.4(b)(ii) and (iii) and 114.2(e) with respect to federal contributions reimbursed by PFFW from 2009 through 2010.

**II. FACTUAL SUMMARY**

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

PFFW reimbursed the FIREPAC contributions in two ways. Between 2002 and 2008, with the authorization of the full Executive Board, PFFW reimbursed eleven officers for \$16,888.34 in FIREPAC contributions via claims they submitted for expenses related to fictitious "legislative meetings" in Madison, Wisconsin. Submission at 6-7. In 2009 and 2010, after the

1 fictitious "legislative meetings" scheme ended, without the knowledge of the full Executive  
2 Board, PFFW reimbursed three officers for \$1,375 in FIREPAC contributions via claims they  
3 submitted for expenses related to conference registration fees that they never actually paid.

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

9 A. The 2002-2008 Reimbursements

10 PFFW is governed by an eleven officer Executive Board, all of whom are full-time  
11 firefighters. The officers are elected to staggered three-year terms at annual IAFF/PFFW state  
12 conventions. Submission at 3. Lance A. Hanson was a PFFW Executive Board officer from  
13 2000 to 2011. During a January 2002 leadership retreat, PFFW's then existing Executive Board  
14 encouraged its officers to increase their FIREPAC contributions to a level that would also allow  
15 them to attend the IAFF annual conference without paying a registration fee. *Id.* When some  
16 Executive Board officers expressed concern about their ability to afford larger contributions to  
17 FIREPAC, the Executive Board agreed that "any officer who made such a contribution in order  
18 to attend the legislative conference would be able to submit an expense statement to the PFFW  
19 for two administrative days to be characterized as a 'legislative meeting' in Madison  
20 [Wisconsin]." <sup>1</sup> *Id.* at 6-7. PFFW states that the "legislative meeting" contrivance was adopted  
21 in order to reduce, if not eliminate, the financial burden to Board members who made the larger  
22 contributions to FIREPAC instead of paying the registration fee to IAFF. *Id.* at 7. During

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<sup>1</sup> Lance A. Hanson was an Executive Board officer at the time the unlawful reimbursement scheme was created.



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

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

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

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

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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 summary two days, of "legislative meetings" in 2005 to compensate for the 2004 omission. *Id.* at 7.

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

7 **B. 2009-2010 Reimbursements**

8 During the course of preparing this Submission, PFFW learned that it also had  
9 reimbursed three Executive Board officers -- Baird, Gee, and Hanson -- for \$1,375 in FIREPAC  
10 contributions made in 2009-2010. Submission at 10. Baird, Gee, and Hanson state that they  
11 made \$500 contributions each to FIREPAC in March 2009 and February 2010 in connection  
12 with the 2009 and 2010 IAFF legislative conferences. By making the \$500 contributions to  
13 FIREPAC, IAFF waived their registration fees. However, Baird, Gee, and Hanson submitted  
14 expense claims requesting reimbursement of the conference registration fees they had not  
15 actually paid in order to be reimbursed for their contributions. *Id.* at 10-11; *see also* Baird, Gee,  
16 and Hanson Declarations. PFFW admits that it effectively reimbursed these 2009-2010  
17 FIREPAC contributions, but asserts that no Executive Board officer, other than the three officers  
18 submitting the claims, was aware that the \$425 and \$475 registration fees had not been paid. *Id.*  
19 at 2, 10-11.

20 **C. Corrective Actions**

21 In January 2010, Joseph Conway, an IAFF Vice-President, advised PFFW that he had  
22 learned of PFFW's improper reimbursements of FIREPAC contributions, and he asked what  
23 corrective actions PFFW would take. Submission at 16. In March 2010, PFFW consulted with

counsel and established a "Special Committee" to review the expense payment practices and recommend a course of action. *Id.* After the Special Committee concluded its review, PFFW sent letters on April 10, 2010, to each of the eleven past and current Executive Board officers itemizing the amounts known to have been reimbursed between 2004 and 2008, inviting any corrections, asking for estimates of reimbursements between 2002 and 2003, and requesting repayment of all contribution reimbursements.<sup>3</sup> *Id.* at 9; *see also* Submission Attachments. All eleven Executive Board officers repaid at least the specific sums requested, and some paid additional amounts to reflect 2002 and 2003 contribution reimbursements.<sup>4</sup> *Id.*

#### D. Summary

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

Executive Board Officers	Estimated Officer Reimbursement Amt. for 2002 and 2003	Officer Reimb. Amt. for 2005-2008	Officer Reimbursement Amt. for 2009-2010	Total repayment amt. for 2002-2010
Aldrich	\$0	\$1,027.70	n/a	\$1,027.70
Drury	\$37.71	\$1,162.29	\$0	\$3,000
Gea	\$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>

<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 \$18,263.44 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 estimates 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.

1     **III.    LEGAL ANALYSIS**

2           The Federal Election Campaign Act of 1971, as amended ("Act") prohibits a labor  
3 organization from making a contribution in connection with any election and any officer of any  
4 labor organization from consenting to any contribution by the labor organization. 2 U.S.C.  
5 § 441b(a) and 11 C.F.R. 114.2(e). The Act further provides that "no person shall make a  
6 contribution in the name of another person." 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(i). The  
7 prohibition extends to knowingly permitting one's name to be used to effect the making of  
8 contribution in the name of another or knowingly helping or assisting any person in making a  
9 contribution in the name of another. 11 C.F.R. § 110.4(b)(ii) and (iii). The Commission's  
10 Explanation and Justification ("E&J") states that "knowingly helping or assisting" applies to  
11 "those who initiate or instigate or have some significant participation in a plan or scheme to  
12 make a contribution in the name of another . . . ." E&J for 11 C.F.R. § 110.4 at 54 Fed. Reg.  
13 34,105 (Aug. 17, 1989).

14           The Act also addresses violations of law that are knowing and willful. See 2 U.S.C.  
15 §§ 437g(a)(5)(B) and 437g(d). The knowing and willful standard requires knowledge that one is  
16 violating the law. *Federal Election Commission v. John A. Dramasi for Congress Committee*,  
17 640 F. Supp. 983, 987 (D. N.J. 1986). A knowing and willful violation may be established "by  
18 proof that the defendant acted deliberately and with knowledge that the representation was  
19 false." *United States v. Hopkins*, 916 F.2d 207, 214 (5<sup>th</sup> Cir. 1990). Evidence does not have to  
20 show that the defendant had a specific knowledge of the regulations; an inference of knowing  
21 and willful conduct may be drawn from the defendant's scheme to disguise the source of funds  
22 used in illegal activities. *Id.* at 213-15.

**A. PFFW & Executive Board Officers/Conduits**

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

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

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<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 knowingly helping or assisting the PFFW in the making of contributions in the names of others.

2 **B. Knowing and Willful**

3 **1. 2002 through 2008 Reimbursement Scheme**

4 The individual Executive Board officers concealed the 2002-2008 reimbursements by  
5 authorizing the officers to claim expenses for fictitious "legislative meetings." The individual  
6 officers claim there was no pre-planning or discussion about whether such practices would  
7 comply with the Act or IAFF policy. But, the Executive Board went to considerable lengths to  
8 conceal the reimbursements over a number of years by allowing its officers to be reimbursed for  
9 expense vouchers they knew were false. PFFW acknowledges that the Executive Board had the  
10 option of revising its existing policies to provide for legitimate reimbursement for the officers'  
11 time and efforts. Submission at 7. Instead, it chose a false method to reimburse itself for the  
12 FIREPAC contributions. Thus, even if Respondents were not aware of the Act's specific  
13 prohibitions, Respondents' use of fictitious "legislative meetings" to conceal the reimbursements  
14 strongly suggests they knew that the reimbursements were improper. *United States v. Hopkins*,  
15 916 F.2d 207, 214 (5<sup>th</sup> Cir. 1990).

16 Accordingly, the Commission found that Lance Hanson's violations of 2 U.S.C.  
17 §§ 441b(a) and 441f and 11 C.F.R. §§ 110.4(b)(ii) - (iii) and 114.2(e) from 2002 to 2008 were  
18 knowing and willful.

19 **2. 2009 and 2010 Contribution Reimbursements**

20 In 2009 and 2010, three Executive Board officers, including Lance Hanson, received  
21 contribution reimbursements after PFFW had ended its 2002-2008 expense payment practice.  
22 These individuals caused PFFW to reimburse their FIREPAC contributions by claiming to have  
23 paid IAFF conference registration fees that had actually been waived.

1           As Executive Board officers, these individuals caused PFFW to use prohibited labor  
2 union general treasury funds to make contributions in the names of others and consented to the  
3 use of those prohibited funds to make contributions in the names of others. In addition, these  
4 Executive Board officers permitted their names to be used to make contributions in the names of  
5 others and knowingly helped or assisted PFFW to make those contributions in the names of  
6 others.

7           PFFW's decision in late 2008 to stop the "legislative meetings" reimbursement scheme  
8 should have put these three officers on notice that the EIREPAC contributions could not be  
9 reimbursed. Although the three PFFW Executive Board officers did not pay the fees, they  
10 appear to have believed that they were entitled to reimbursement of registration fees IAFF  
11 waived as a result of the FIREPAC contributions nominally made from their personal funds.  
12 PFFW acknowledges that its payment of these claims resulted in the reimbursement of the  
13 FIREPAC contributions. Submission at 10 and attached Declarations. The three officers have  
14 offered no reasonable explanation for their conduct. See Declarations.

15           Accordingly, the Commission found that Lance Hanson's violations of 2 U.S.C.  
16 §§ 441b(a) and 441f and 11 C.F.R. §§ 110.4(b)(ii) - (iii) and 114.2(e) for the 2010 contribution  
17 reimbursement was knowing and willful.

1 **FACTUAL AND LEGAL ANALYSIS**

2  
3 **MUR 6515**

4  
5 **RESPONDENT:**

6 **Michael J. Woodzicka**

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 Michael J. Woodzicka knowingly and willfully violated  
14 2 U.S.C. §§ 441b(a) and 441f; and 11 C.F.R. §§ 110.4(b)(ii) and (iii) and 114.2(e) with respect to  
15 federal 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. Michael Woodzicka was a PFFW Executive Board officer from  
12 2005 to 2011. 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 Madison  
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

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<sup>1</sup> Michael J. Woodzicka was not an Executive Board officer at the time the unlawful reimbursement scheme was created.

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

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

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

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

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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.

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

**B. Corrective Actions**

In January 2010, Joseph Conway, an IAFF Vice-President, advised PFFW that he had learned of PFFW's improper reimbursements of FIREPAC contributions, and he asked what corrective actions PFFW would take. Submission at 16. In March 2010, PFFW consulted with counsel and established a "Special Committee" to review the expense payment practices and recommend a course of action. *Id.* After the Special Committee concluded its review, PFFW sent letters on April 10, 2010, to each of the eleven past and current Executive Board officers itemizing the amounts known to have been reimbursed between 2004 and 2008, inviting any corrections, asking for estimates of reimbursements between 2002 and 2003, and requesting repayment of all contribution reimbursements.<sup>3</sup> *Id.* at 9; *see also* Submission Attachments. All eleven Executive Board officers repaid at least the specific sums requested, and some paid 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 \$18,263.44 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 estimates of reimbursements during

**C. Summary**

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

Executive Board Officers	Estimated Officer Reimbursement Amt. for 2002 and 2003	Officer Reimbursement Amt. for 2005-2008	Officer Reimbursement Amt. 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 a 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

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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.

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. Dramez 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

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

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

12 B. Knowing and Willful

13 1. 2002 through 2008 Reimbursement Scheme

14 The individual Executive Board officers concealed the 2002-2008 reimbursements by  
15 authorizing the officers to claim expenses for fictitious "legislative meetings." The individual  
16 officers claim there was no pre-planning or discussion about whether such practices would  
17 comply with the Act or IAFF policy. But, the Executive Board went to considerable lengths to  
18 conceal the reimbursements over a number of years by allowing its officers to be reimbursed for  
19 expense vouchers they knew were false. PFFW acknowledges that the Executive Board had the  
20 option of revising its existing policies to provide for legitimate reimbursement for the officers'

<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 time and efforts. Submission at 7. Instead, it chose a false method to reimburse itself for the  
2 FIREPAC contributions. Thus, even if Respondents were not aware of the Act's specific  
3 prohibitions, Respondents' use of fictitious "legislative meetings" to conceal the reimbursements  
4 strongly suggests they knew that the reimbursements were improper. *United States v. Hopkins*,  
5 916 F.2d 207, 214 (5<sup>th</sup> Cir. 1990).

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