



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20461

THIS IS THE END OF TUE # 773

Date Filmed June 9, 1981 Camera No. --- 2

Cameraman SPC

81040253705

81040253706

MUR 773

PS Form 3811, 10-13-79

● **SENDER** Complete items 1, 2, and 3. Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one.)

☐ Show to whom and date delivered.....

☐ Show to whom, date and address of delivery.....

☐ RESTRICTED DELIVERY Show to whom and date delivered.....

☒ RESTRICTED DELIVERY Show to whom, date, and address of delivery.....

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
Benjamin L. Zelenko, Esq.
1019 19th St., N.W., Suite 500
Washington, D.C. 20036

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	949794	

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

K. Gates

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5-4-81

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5. ADDRESS (Complete only if requested)

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 29, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Benjamin L. Zelenko, Esquire
Landis, Cohen, Singman & Rauh
1019 Nineteenth Street, N.W.
Suite 500
Washington, D.C. 20036

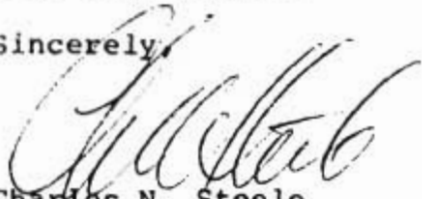
Re: MUR 773

Dear Mr. Zelenko:

On April 28, 1981, the Commission voted to accept the conciliation agreement signed by your clients in the above-referenced action. Accordingly, the file has been closed in this matter, and it will become a part of the public record within thirty days. However, 2 U.S.C. § 437g(a)(4)(B) prohibits any information derived in connection with any conciliation attempt from becoming public without the written consent of the Commission, as well as the respondent. Should you wish any such information to become part of the public record, please so advise us in writing.

Enclosed for your file please find a fully executed copy of the final conciliation agreement in this matter.

Sincerely,


Charles N. Steele
General Counsel

Enclosure

8104051707



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Benjamin L. Zelenko, Esquire
Landis, Cohen, Singman & Rauh
1019 Nineteenth Street, N.W.
Suite 500
Washington, D.C. 20036

Re: MUR 773

Dear Mr. Zelenko:

On , 1981, the Commission voted to accept the conciliation agreement signed by your clients in the above-referenced action. Accordingly, the file has been closed in this matter, and it will become a part of the public record within thirty days. However, 2 U.S.C. § 437g(a)(4)(B) prohibits any information derived in connection with any conciliation attempt from becoming public without the written consent of the Commission, as well as the respondent. Should you wish any such information to become part of the public record, please so advise us in writing.

Enclosed for your file please find a fully executed copy of the final conciliation agreement in this matter.

Sincerely,

Charles N. Steele
General Counsel

Enclosure

MLB
4/29/81

81 APR 15 AM: 27

In the Matter of)
)
International Organization) MUR 773
of Master, Mates, and Pilots)
and the Masters, Mates and)
Pilots Political Contribution)
Fund)

CONCILIATION AGREEMENT

810055705
This matter having been initiated by the Commission in the ordinary course of carrying out its supervisory responsibilities, and, after an investigation, the Commission having found reasonable cause to believe that the International Organization of Masters, Mates & Pilots (hereinafter "IOMMP" or "Respondent") and its connected organization, the Masters, Mates and Pilots Political Contribution Fund (hereinafter "PCF" or "Respondent") have violated 2 U.S.C. § 441b(b)(4)(A)(ii) and 11 C.F.R. § 114.5 (a)(2).

WHEREFORE, the Commission and the Respondents, having duly entered into conciliation as provided for in 2 U.S.C. § 437g(a)(5)(1976), and 2 U.S.C. § 437g(a)(4)(A)(1979), do hereby agree as follows:

I. The Federal Election Commission has jurisdiction over the Respondents and subject matter in this case.

II. The Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. The Respondents enter into this agreement with the Commission voluntarily.

IV. The pertinent facts in this matter are as follows:

A. On November 19, 1976, the PCF registered with the Commission as a political committee, listing the IOMMP as its "connected organization."

B. On or about November 19, 1976, the IOMMP sent a letter to pensioners receiving payments from the Masters, Mates and Pilots Pension Fund, soliciting authorizations of a 2% deduction from monthly pension benefit payments to be contributed to the PCF. Respondents also have maintained a practice, since November 1976, of soliciting IOMMP members prior to retirement, to authorize a contribution to the PCF to be deducted from future pension benefit payments.

C. The Respondents, in soliciting pensioners for PCF contributions, in the past made use of a "Pension Deduction Authorization Card" to be signed by the pensioner. The Pension Deduction Authorization Card used by the Respondents authorized a 2% deduction from monthly pension checks to be forwarded to the PCF. This authorization card did not inform the pensioner solicited that more or less than the 2% deduction it provided for could be contributed.

D. Retirees/Pensioners who do not pay IOMMP dues, cannot vote on referenda, constitutional amendments

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or ratification of collective bargaining agreements, are ineligible to vote in IOMMP elections or hold office in the IOMMP, and under the IOMMP constitution are not members in good standing.

E. The Respondents have solicited contributions to the PCF from actively employed members of the IOMMP. Such solicitations included requests to authorize a deduction from payments received by participants in the Masters, Mates and Pilots Vacation Plan.

F. Respondents, in soliciting members to authorize the deduction of a PCF contribution from Masters, Mates and Pilots Vacation Plan payment, in the past made use of a card which listed six amounts and instructed the person solicited to check one. This authorization card did not inform the person solicited that more or less than the six amounts listed could be contributed to the PCF.

G. Respondents in the past have also made use of a "receipt form" to administer the collection of contributions to the PCF. The member's copy of this form listed seven amounts and instructed the member to check one. This "receipt form" did not inform the signatory that more or less than those seven amounts could be contributed.

V. WHEREFORE Respondents agree:

A. That the PCF is a registered political committee connected to the IOMMP, a labor organization.

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B. That on or about November 19, 1976, the Respondents solicited contributions to the PCF from pensioners retired from employment. Respondents have also solicited IOMMP members prior to retirement to authorize a contribution to the PCF to commence after retirement. Both the former and the latter solicitations for PCF contributions have taken the form of requests for authorization of a deduction from pension benefit checks to be transferred to the PCF.

C. 2 U.S.C. § 441b(b)(4)(A)(ii) prohibits a labor organization or its separate segregated fund from soliciting contributions to the fund from any person other than a member of the labor organization.

D. 11 C.F.R. § 114.1(e) defines "member" as one who currently satisfies the requirements for membership in a local, national or international labor organization.

E. The Commission has determined that IOMMP pensioners/retirees who do not pay dues as required by Articles III and VIII of the IOMMP constitution do not satisfy the requirements for membership in the IOMMP; and that such pensioners do not enjoy the rights of full members of the IOMMP, as they cannot vote on referenda, constitutional amendments, ratification of collective bargaining agreements, nor vote for or hold office in the IOMMP, all of which are rights IOMMP members in good standing enjoy.

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F. For the purpose of settling this matter, Respondents do not contest the Commission determination that by soliciting contributions from pensioners who were not members of the IOMMP, the Respondents violated 2 U.S.C. § 441b(b)(4)(A)(ii).

G. That the "Pension Deduction Authorization Card" used by Respondents in the past to obtain contributions to the PCF provided for a 2% deduction from monthly pension checks, but did not advise those solicited that more or less than that amount could be contributed.

H. That the "receipt form" and the authorization card for deductions from Masters, Mates and Pilots Vacation Plan payments used by Respondents in the past to obtain contributions to the PCF suggested several different amounts that could be contributed, but did not advise the persons given these forms that more or less than these amounts could be contributed.

I. The Commission has determined that the facts described in the preceding three paragraphs F, G, and H, above, constituted a violation of 11 C.F.R. § 114.5(a)(2), which provides that a solicitation for a contribution to a separate segregated fund of a labor organization, which contains a guideline for the amount of the contribution, must inform the person solicited that he is free to contribute more or less than the suggested amount.

J. Respondents have voluntarily ceased using the contribution forms determined to be unlawful by the Commission, and

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now use and will use in the future only forms which comply in all respects with 11 C.F.R. § 114.5(a)(2).

K. That Respondents have and will cease solicitation of individuals who are not members of the IOMMP, including pensioners, for contributions to the PCF.

L. The Commission agrees that the Respondents may legally continue to solicit IOMMP members prior to their retirement for PCF contributions to be deducted from future pension benefit payments, so long as the PCF contributors so solicited are informed, at least once a year, that any authorization to deduct PCF contributions may be revoked at any time and that such contributions are voluntary. This notice shall be conspicuous and shall not contain a solicitation for additional funds to the PCF.

M. For the purpose of settling this controversy, Respondents agree to pay a civil penalty in the amount of \$2,000.00.

N. The Respondents will now, and in the future, comply in all respects with the Federal Election Campaign Act of 1971, as amended.

VI. General Conditions

A. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1), concerning the matter at issue herein, or on its own motion, may review compliance with this Agreement. If the

81040253714

Commission believes that this Agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

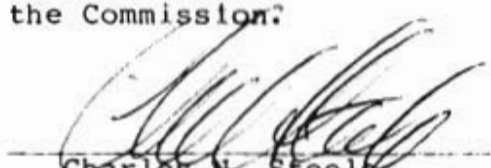
B. It is further agreed that this Conciliation Agreement is entered into in accordance with 2 U.S.C. § 437g(a)(5)(A) (1976), and 2 U.S.C. § 437g(a)(4)(A) (1979), and that this Agreement, unless violated, shall constitute a complete bar to any further action by the Commission with regard to the matter set forth in this Agreement.

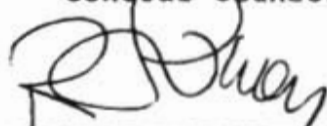
C. It is mutually agreed that this agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

D. It is agreed that the Respondents shall have no more than thirty (30) days from the date of this agreement to implement and comply with the requirements contained herein, or so notify the Commission?

29 April 1981
Date

April 7, 1981
Date


Charles N. Steele
General Counsel


International Organization
of Masters, Mates and Pilots
and Masters, Mates and Pilots
Political Contribution Fund

81040253715

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

International Organization of
Master, Mates, and Pilots
and the Masters, Mates and
Pilots Political Contribution
Fund

MUR 773

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on April 28, 1981, the Commission decided by a vote of 5-1 to take the following actions regarding MUR 773:

1. Accept the conciliation agreement as attached to the General Counsel's April 20, 1981 memorandum.
2. Close the file.
3. Send the letter as submitted with the General Counsel's memorandum dated April 20, 1981.

Commissioners Aikens, Harris, McGarry, Thomson and Tiernan voted affirmatively in this matter; Commissioner Reiche dissented.

Attest:

4/28/FI

Date

Jody A. Custer

for Marjorie W. Emmons
Secretary of the Commission

Received in Office of the Commission Secretary: 4-20-81, 3:33
Circulated on 48 hour vote basis: 4-21-81, 11:00

81040253716



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS/JODY CUSTER *jc*

DATE: APRIL 28, 1981

SUBJECT: MUR 773 - Memorandum to the Commission
dated April 20, 1981; Received in OCS,
4-20-81, 3:33

The above-named memorandum was circulated to the Commission on a 48 hour tally vote basis at 11:00, April 21, 1981.

Your office was notified at 9:45, April 23, 1981 of an objection by Commissioner Aikens. Accordingly, this matter was placed on the Executive Session Agenda for April 30, 1981.

By memorandum this date, Commissioner Aikens withdrew her objection, thereby removing MUR 773 from the Agenda for April 30, 1981.

The certification regarding this matter is attached as well as a copy of Commissioner Aikens' memorandum.

Attachments:
as stated

cc: Commissioner Aikens

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

31 APR 28 P 3: 01

April 28, 1981

MEMORANDUM TO: Ms. Marjorie W. Emmons,
Commission Secretary

THROUGH: B. Allen Clutter, *BA*
Staff Director

FROM: Commissioner Joan D. Aikens *JDA*

SUBJECT: Withdrawal of Objection

By this memorandum, I hereby withdraw my previously filed objection to the memorandum to the Commission dated April 20, 1981 in the matter styled, "Conciliation in MUR 773," and cast my affirmative vote for the recommendations contained therein.

JDA:jet

cc: Charles N. Steele,
General Counsel

61040253713



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE
FROM: MARJORIE W. EMMONS/JODY CUSTER *jc*
DATE: APRIL 28, 1981
SUBJECT: COMMENTS REGARDING MUR 773, Memo to the Commission,
dated April 20, 1981; Received in OCS, 4-20-81,
3:33

Attached is a copy of Commissioner Reiche's
vote sheet with comments regarding MUR 773.

ATTACHMENT:
Copy of Vote Sheet

61040253719

SENSITIVE

VED
THE
SECRETARY

FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

81 APR 21 P 2: 31

Date and Time Transmitted: TUESDAY, 4-21-81,

11:00

Commissioner McGARRY, AIKENS, TIERNAN, THOMSON, REICHE, HARRISRETURN TO OFFICE OF COMMISSION SECRETARY BY: THURSDAY, APRIL 23, 1981

11:00

MUR No. 773 Memorandum to the Commission, dated April 20, 1981

() I approve the recommendation

(✓) I object to the recommendation

COMMENTS: This is for record purposes only --
consistent with my prior objection.Date: 4/21/81 Signature: Frank P. ReicheA DEFINITE VOTE IS REQUIRED AND ALL SHEETS SIGNED AND DATED.
PLEASE RETURN ONLY THE VOTE SHEETS TO THE OFFICE OF THE
COMMISSION SECRETARY NO LATER THAN THE DATE AND TIME SHOWN
ABOVE.

8100053720



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE *mwe*
FROM: MARJORIE W. EMMONS/JODY CUSTER *jc*
DATE: APRIL 23, 1981
SUBJECT: OBJECTION - MUR 773 Memorandum to the Commission,
dated 4-20-81; Received in OCS, 4-20-81, 3:33

The above-named document was circulated on a 48
hour vote basis at 11:00, April 21, 1981.

Commissioner Aikens submitted an objection at 5:25,
April 22, 1981.

This matter will be placed on the Executive Session
Agenda for Thursday, April 30, 1981.

61040253721

April 20, 1981

MEMORANDUM TO: Marjorie W. Santos
FROM: Elissa T. Carr
SUBJECT: MUR 773

Please have the attached Memo distributed to the Commission on a 48 hour tally basis. Thank you.

81040253722

SENSITIVE

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

81 APR 20 P 3: 33

April 20, 1981

MEMORANDUM

TO: The Commission

FROM: Charles N. Steele *CNS*
General Counsel

SUBJECT: Conciliation in MUR 773

Attached is the signed conciliation agreement from the respondents in MUR 773. This is the agreement approved by the Commission on March 25, 1981. Accordingly, the Office of General Counsel recommends that the Commission accept the attached agreement and close the file in this matter.

Recommendation

1. Accept the attached conciliation agreement.
2. Close the file.
3. Send the attached letter.

Attachments:

- I. Signed Conciliation Agreement
- II. Letter to Respondents' attorney

31049253723

RECEIVED
Contract
81 APR 15 AM: 27

LAW OFFICES
LANDIS, COHEN, SINGMAN AND RAUH
1019 NINETEENTH STREET, N.W., SUITE 500
WASHINGTON, D. C. 20036
(202) 755-2020

4503

JAMES M. LANDIS (1899-1964)
WALLACE M. COHEN *
JULIAN H. SINGMAN *
B. MICHAEL RAUH *
MARTIN SHULMAN *
BENJAMIN L. ZELENSKO *
MICHAEL S. LEVY

CABLE ADDRESS
LACOR - WASHINGTON, D. C.

April 13, 1981

VIRGINIA OFFICE
10100 MAIN STREET
FAIRFAX, VIRGINIA 22031
(703) 591-0100

HARRY FRIEDMAN
OF COUNSEL

* ALSO ADMITTED IN MASSACHUSETTS
* ALSO ADMITTED IN VIRGINIA
* ALSO ADMITTED IN MARYLAND
* ALSO ADMITTED IN NEW YORK

Charles N. Steele, General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 773

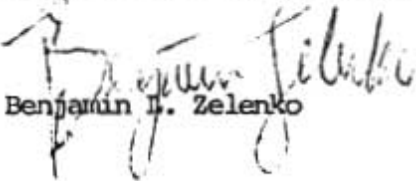
Dear Mr. Steele:

I am pleased to forward herewith the Conciliation Agreement in the above-referenced matter executed by the Respondent. Payment of the civil penalty provided for in the Agreement will be forwarded shortly.

I would appreciate receiving a copy of the Agreement when it is executed by the Commission.

Sincerely,

Landis, Cohen, Singman and Rauh


Benjamin L. Zelenko

BLZ:jp
Enclosure

Attachment I
(8 pages)

810010053724

BEFORE THE FEDERAL ELECTION COMMISSION

81 APR 15 AM: 27

In the Matter of)
 International Organization) MUR 773
 of Master, Mates, and Pilots)
 and the Masters, Mates and)
 Pilots Political Contribution)
 Fund)

CONCILIATION AGREEMENT

This matter having been initiated by the Commission in the ordinary course of carrying out its supervisory responsibilities, and, after an investigation, the Commission having found reasonable cause to believe that the International Organization of Masters, Mates & Pilots (hereinafter "IOMMP" or "Respondent") and its connected organization, the Masters, Mates and Pilots Political Contribution Fund (hereinafter "PCF" or "Respondent") have violated 2 U.S.C. § 441b(b)(4)(A)(ii) and 11 C.F.R. § 114.5 (a)(2).

WHEREFORE, the Commission and the Respondents, having duly entered into conciliation as provided for in 2 U.S.C. § 437g(a)(5)(1976), and 2 U.S.C. § 437g(a)(4)(A)(1979), do hereby agree as follows:

I. The Federal Election Commission has jurisdiction over the Respondents and subject matter in this case.

II. The Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. The Respondents enter into this agreement with the Commission voluntarily.

IV. The pertinent facts in this matter are as follows:

A. On November 19, 1976, the PCF registered with the Commission as a political committee, listing the IOMMP as its "connected organization."

B. On or about November 19, 1976, the IOMMP sent a letter to pensioners receiving payments from the Masters, Mates and Pilots Pension Fund, soliciting authorizations of a 2% deduction from monthly pension benefit payments to be contributed to the PCF. Respondents also have maintained a practice, since November 1976, of soliciting IOMMP members prior to retirement, to authorize a contribution to the PCF to be deducted from future pension benefit payments.

C. The Respondents, in soliciting pensioners for PCF contributions, in the past made use of a "Pension Deduction Authorization Card" to be signed by the pensioner. The Pension Deduction Authorization Card used by the Respondents authorized a 2% deduction from monthly pension checks to be forwarded to the PCF. This authorization card did not inform the pensioner solicited that more or less than the 2% deduction it provided for could be contributed.

D. Retirees/Pensioners who do not pay IOMMP dues, cannot vote on referenda, constitutional amendments

or ratification of collective bargaining agreements, are ineligible to vote in IOMMP elections or hold office in the IOMMP, and under the IOMMP constitution are not members in good standing.

E. The Respondents have solicited contributions to the PCF from actively employed members of the IOMMP. Such solicitations included requests to authorize a deduction from payments received by participants in the Masters, Mates and Pilots Vacation Plan.

F. Respondents, in soliciting members to authorize the deduction of a PCF contribution from Masters, Mates and Pilots Vacation Plan payment, in the past made use of a card which listed six amounts and instructed the person solicited to check one. This authorization card did not inform the person solicited that more or less than the six amounts listed could be contributed to the PCF.

G. Respondents in the past have also made use of a "receipt form" to administer the collection of contributions to the PCF. The member's copy of this form listed seven amounts and instructed the member to check one. This "receipt form" did not inform the signatory that more or less than those seven amounts could be contributed.

V. WHEREFORE Respondents agree:

A. That the PCF is a registered political committee connected to the IOMMP, a labor organization.

B. That on or about November 19, 1976, the Respondents solicited contributions to the PCF from pensioners retired from employment. Respondents have also solicited IOMMP members prior to retirement to authorize a contribution to the PCF to commence after retirement. Both the former and the latter solicitations for PCF contributions have taken the form of requests for authorization of a deduction from pension benefit checks to be transferred to the PCF.

C. 2 U.S.C. § 441b(b)(4)(A)(ii) prohibits a labor organization or its separate segregated fund from soliciting contributions to the fund from any person other than a member of the labor organization.

D. 11 C.F.R. § 114.1(e) defines "member" as one who currently satisfies the requirements for membership in a local, national or international labor organization.

E. The Commission has determined that IOMMP pensioners/retirees who do not pay dues as required by Articles III and VIII of the IOMMP constitution do not satisfy the requirements for membership in the IOMMP; and that such pensioners do not enjoy the rights of full members of the IOMMP, as they cannot vote on referenda, constitutional amendments, ratification of collective bargaining agreements, nor vote for or hold office in the IOMMP, all of which are rights IOMMP members in good standing enjoy.

F. For the purpose of settling this matter, Respondents do not contest the Commission determination that by soliciting contributions from pensioners who were not members of the IOMMP, the Respondents violated 2 U.S.C. § 441b(b)(4)(A)(ii).

G. That the "Pension Deduction Authorization Card" used by Respondents in the past to obtain contributions to the PCF provided for a 2% deduction from monthly pension checks, but did not advise those solicited that more or less than that amount could be contributed.

H. That the "receipt form" and the authorization card for deductions from Masters, Mates and Pilots Vacation Plan payments used by Respondents in the past to obtain contributions to the PCF suggested several different amounts that could be contributed, but did not advise the persons given these forms that more or less than these amounts could be contributed.

I. The Commission has determined that the facts described in the preceding three paragraphs F, G, and H, above, constituted a violation of 11 C.F.R. § 114.5(a)(2), which provides that a solicitation for a contribution to a separate segregated fund of a labor organization, which contains a guideline for the amount of the contribution, must inform the person solicited that he is free to contribute more or less than the suggested amount.

J. Respondents have voluntarily ceased using the contribution forms determined to be unlawful by the Commission, and

81040253729

now use and will use in the future only forms which comply in all respects with 11 C.F.R. § 114.5(a)(2).

K. That Respondents have and will cease solicitation of individuals who are not members of the IOMMP, including pensioners, for contributions to the PCF.

L. The Commission agrees that the Respondents may legally continue to solicit IOMMP members prior to their retirement for PCF contributions to be deducted from future pension benefit payments, so long as the PCF contributors so solicited are informed, at least once a year, that any authorization to deduct PCF contributions may be revoked at any time and that such contributions are voluntary. This notice shall be conspicuous and shall not contain a solicitation for additional funds to the PCF.

M. For the purpose of settling this controversy, Respondents agree to pay a civil penalty in the amount of \$2,000.00.

N. The Respondents will now, and in the future, comply in all respects with the Federal Election Campaign Act of 1971, as amended.

VI. General Conditions

A. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1), concerning the matter at issue herein, or on its own motion, may review compliance with this Agreement. If the

Commission believes that this Agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

B. It is further agreed that this Conciliation Agreement is entered into in accordance with 2 U.S.C. § 437g(a)(5)(A) (1976), and 2 U.S.C. § 437g(a)(4)(A) (1979), and that this Agreement, unless violated, shall constitute a complete bar to any further action by the Commission with regard to the matter set forth in this Agreement.

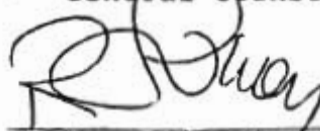
C. It is mutually agreed that this agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

D. It is agreed that the Respondents shall have no more than thirty (30) days from the date of this agreement to implement and comply with the requirements contained herein, or so notify the Commission.

Date

April 7, 1981
Date

Charles N. Steele
General Counsel



International Organization
of Masters, Mates and Pilots
and Masters, Mates and Pilots
Political Contribution Fund



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Benjamin L. Zelenko, Esquire
Landis, Cohen, Singman & Rauh
1019 Nineteenth Street, N.W.
Suite 500
Washington, D.C. 20036

Re: MUR 773

Dear Mr. Zelenko:

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Enclosed for your file please find a fully executed copy of the final conciliation agreement in this matter.

Sincerely,

Charles N. Steele
General Counsel

Enclosure

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RECEIVED
GCC#4536
81 APR 22 All: 09

LAW OFFICES
LANDIS, COHEN, SINGMAN AND RAUH
1019 NINETEENTH STREET, N. W., SUITE 500
WASHINGTON, D. C. 20036
(202) 785-8090

JAMES M. LANDIS (1899-1964)
WALLACE M. COHEN *
JULIAN H. SINGMAN *
B. MICHAEL RAUH *
MARTIN SHULMAN *
BENJAMIN L. ZELENGO *
MICHAEL S. LEVY

CABLE ADDRESS
LACOS - WASHINGTON, D. C.

April 21, 1981

HARRY FRIEDMAN
OF COUNSEL

VIRGINIA OFFICE
10100 MAIN STREET
FAIRFAX, VIRGINIA 22030
(703) 501-0100

* ALSO ADMITTED IN MASSACHUSETTS
* ALSO ADMITTED IN VIRGINIA
* ALSO ADMITTED IN MARYLAND
* ALSO ADMITTED IN NEW YORK

Charles N. Steele, General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 773

Dear Mr. Steele:

In accordance with provisions of the Conciliation Agreement in the above-referenced matter, forwarded herewith is a check drawn to the order of the U.S. Treasury in the amount of \$2,000.

I trust that upon receipt of this payment the Commission will close the file in this matter. I would appreciate acknowledgement of this payment and a copy of the Agreement when it is executed by the Commission. Thank you for your cooperation.

Sincerely,

Landis, Cohen, Singman and Rauh

Benjamin L. Zelenko
Benjamin L. Zelenko

BLZ:jp

Enclosure: Check #245, payable to U.S. Treasury

APR 22 All: 57

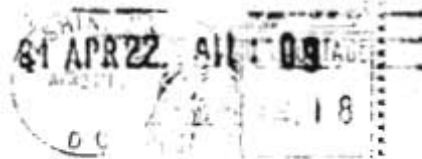
3 1 0 1 0 5 7 3 3

841049253734

BY ENDORSEMENT THIS CHECK WHEN PAID IS ACCEPTED IN FULL PAYMENT OF THE FOLLOWING ACCOUNT		MASTERS, MATES & PILOTS POLITICAL CONTRIBUTION FUND ADMINISTRATIVE ACCOUNT 39 BROADWAY NEW YORK, N.Y. 10006		245
DATE	AMOUNT	PAY TO THE ORDER OF	DATE	AMOUNT
		U.S. Treasury	April 16 19 81	1-1 210
		Two thousand dollars		\$2000 ⁰⁰
				DOLLARS
THE BANK OF NEW YORK 90 WASHINGTON STREET NEW YORK, N.Y. 10006		Harry S. Truman		
01021000010		07 0726		

LAW OFFICES

LANDIS, COHEN, SINGMAN AND RAUH
1019 NINETEENTH STREET, N.W., SUITE 500
WASHINGTON, D.C. 20036



Charles N. Steele, General Counsel
FEDERAL ELECTION COMMISSION
Washington, DC 20463

81040251735

100189

RECEIVED

81 APR 15 AM 11:27

LAW OFFICES

LANDIS, COHEN, SINGMAN AND RAUH
1019 NINETEENTH STREET, N.W., SUITE 500
WASHINGTON, D.C. 20036

(202) 785-2020

JAMES M. LANDIS (1899-1964)
WALLACE M. COHEN *
JULIAN H. SINGMAN +
B. MICHAEL RAUH +
MARTIN SHULMAN +
BENJAMIN L. ZELENKO *
MICHAEL M. LEVY

6007
4503

CABLE ADDRESS
LADOC - WASHINGTON, D.C.

April 13, 1981

HARRY FRIEDMAN
OF COUNSEL

VIRGINIA OFFICE
10100 MAIN STREET
FAIRFAX, VIRGINIA 22031
(703) 591 0100

* ALSO ADMITTED IN MASSACHUSETTS
* ALSO ADMITTED IN VIRGINIA
* ALSO ADMITTED IN MARYLAND
* ALSO ADMITTED IN NEW YORK

Charles N. Steele, General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 773

Dear Mr. Steele:

I am pleased to forward herewith the Conciliation Agreement in the above-referenced matter executed by the Respondent. Payment of the civil penalty provided for in the Agreement will be forwarded shortly.

I would appreciate receiving a copy of the Agreement when it is executed by the Commission.

Sincerely,

Landis, Cohen, Singman and Rauh

Benjamin L. Zelenko
Benjamin L. Zelenko

BLZ:jp
Enclosure

81040251736

81040251732
LAW OFFICES

LANDIS, COHEN, SINOMAN AND RAUH
1019 NINETEENTH STREET, N.W., SUITE 500
WASHINGTON, D.C. 20036

Charles N. Steele, General Counsel
Federal Election Commission
Washington, D.C. 20463

RECEIVED



BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

International Organization)
of Masters, Mates, and Pilots)
and the Masters, Mates and)
Pilots Political Contribution)
Fund)

MUR 773

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on March 25, 1981, the Commission decided by a vote of 5-1 to take the following actions regarding MUR 773:

1. Approve the proposed conciliation agreement in settlement of this matter.
2. Send the letter, attached to the Memorandum to the Commission dated March 20, 1981, to the respondents' counsel enclosing the proposed conciliation agreement.

Voting for this determination were Commissioners Aikens, Harris, McGarry, Thomson and Tiernan; Commissioner Reiche dissented.

Attest:

3/25/81
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary to the Commission

Received in Office of Commission Secretary:
Circulated on 48 hour vote basis:

3-20-81, 1:10
3-23-81, 11:00

81010253738



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE *MWE*
FROM: MARJORIE W. EMMONS /JODY CUSTER *jc*
DATE: MARCH 25, 1981
SUBJECT: MUR 773 - COMMENTS

Attached is a copy of Commissioner Reiche's
vote sheet with comments regarding MUR 773.

ATTACHMENT:
Copy of Vote Sheet

81040253739



FEDERAL ELECTION COMMISSION

1121 K STREET N.W.
WASHINGTON D.C. 20463

Date and Time Transmitted: MONDAY 3-23-81,
11:00

Commissioner McGARRY, AIKENS, TIERNAN, THOMSON, REICHE, HARRIS

RETURN TO OFFICE OF COMMISSION SECRETARY BY: WEDNESDAY, MARCH 25, 1981,
11:00

MUR No. 773 Memorandum to the Commission dated March 20, 1981

- () I approve the recommendation
(☒) I object to the recommendation

COMMENTS: For record purposes only in
view of my prior objection.

Date: 3/24/81 Signature: Frank P. Reiche

A DEFINITE VOTE IS REQUIRED AND ALL SHEETS SIGNED AND DATED.
PLEASE RETURN ONLY THE VOTE SHEETS TO THE OFFICE OF THE
COMMISSION SECRETARY NO LATER THAN THE DATE AND TIME SHOWN
ABOVE.



8101005:740

March 28, 1961

MEMORANDUM TO: Marjorie W. Emmons
FROM: Elissa T. Garr
SUBJECT: MUR 773

Please have the attached Memo distributed to the
Commission on a 48 hour tally basis. Thank you.

81040253741



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS/MARGARET CHANEY *me*

DATE: FEBRUARY 25, 1981

SUBJECT: MUR 773 - Memorandum to the Commission
dated 2-20-81; Received in OCS 2-20-81
3:08

The above-named document was circulated on a 48
hour vote basis at 11:00, February 23, 1981.

Commissioner Thomson submitted an objection at 2:40,
this date. Commissioner Reiche submitted an objection for the record.

This matter will be placed on the Executive Session
Agenda for Tuesday, March 3, 1981.

Copies of the Commissioners' vote sheets are attached.

ATTACHMENTS:
Copies of Vote Sheets

8104053742

43 HOUR TALLY SHEET



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

RECEIVED
COMM. SECRETARY

81 FEB 25 P 2: 27

Date and Time Transmitted: Mon. February 23, 1981
11:00

Commissioner McGARRY, AIKENS, TIERNAN, REICHE, HARRIS

RETURN TO OFFICE OF COMMISSION SECRETARY BY: [REDACTED]

MUR No. 773 - Memorandum to the Commission - 02/20/81

☒ I approve the recommendation

☒ I object to the recommendation

COMMENTS: Discussion

Date: 2-25-81 Signature: T.W. Thomson

A DEFINITE VOTE IS REQUIRED AND ALL SHEETS SIGNED AND DATED.
PLEASE RETURN ONLY THE VOTE SHEETS TO THE OFFICE OF THE
COMMISSION SECRETARY NO LATER THAN THE DATE AND TIME SHOWN
ABOVE.



81017253743



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

Date and Time Transmitted: Mon. February 23, 1981

11:00

Commissioner McGARRY, AIKENS, TIERNAN, THOMSON, [REDACTED] HARRIS

RETURN TO OFFICE OF COMMISSION SECRETARY BY: [REDACTED] 1981

MUR No. 773 - Memorandum to the Commission - 02/20/81

- () I approve the recommendation
(✓) I object to the recommendation

COMMENTS: I object for the record--my objection is based upon the Commission's endorsement of the de facto solicitation of retirees.

Date: 2/23/81 Signature: Frank P. Reiche

A DEFINITE VOTE IS REQUIRED AND ALL SHEETS SIGNED AND DATED.
PLEASE RETURN ONLY THE VOTE SHEETS TO THE OFFICE OF THE
COMMISSION SECRETARY NO LATER THAN THE DATE AND TIME SHOWN
ABOVE.



81040353744

February 20, 1981

MEMORANDUM TO: Marjorie W. Emmons
FROM: Elise T. Carr
SUBJECT: NUR 773

Please have the attached Memo distributed to the
Commission on a 48 hour tally basis. Thank you.

81040253745

REPORTS ANALYSIS REFERRAL UPDATE

D
RAD BL-7

D-254

*ORIGIN: Internally Generated
Results from Audit

DATE February 20, 1981

ANALYST Robert Snow *RS*

TO: GENERAL COUNSEL
ATTENTION: Marsha Getner

TEAM CHIEF Roberta Werfel *RW*

THROUGH: STAFF DIRECTOR *me*

COMPLIANCE REVIEW E. Craig Crooks

FROM: ASSISTANT STAFF DIRECTOR FOR REPORTS ANALYSIS *gj*

MUR No. 773

DATE OF ORIGINAL REFERRAL October 24, 1978

**PURPOSE:

The Masters, Mates & Pilots Pensioners Action Fund Transferred \$220, 889.58 (which includes \$49,310 in interest) into its federal account on 6/30/80.

This money has been under dispute between the above organization and the Masters, Mates & Pilots Action Fund. During the court case that took place between these two organizations, the funds were placed in an escrow account.

OUTCOME: (if applicable)

After speaking to Marsha Getner of the Office of General Counsel, it was advised that the attached response should be forwarded to the General Counsel's Office since there is a pending MUR (773) involving the Masters, Mates and Pilots Pensioners Action Fund. In addition, an understanding had been reached between the OGC and the attorney representing the respondent in MUR 773 that these monies would not yet be transferred in the federal account (of the Masters, Mates and Pilots Pensioners Action Fund).

*Commission unit which initiated original Referral (e.g. AUDIT/RAD/OGC).

**INFORMATION, or RESULTS OF RAD ACTION, as appropriate.

610173746

John R. Harold
COUNSELOR AT LAW
1 HAWTHORNE ROAD
BRONXVILLE, N.Y. 10708

914-337-5857

JOHN R. HAROLD
JEFFREY R. SALANT
CHRISTOPHER HAROLD

ROBERT J. O'NEILL

RESPOND TO OFFICE INDICATED

- ☐ ELMSFORD
- ☐ NEW YORK CITY
- ☐ BRONXVILLE

150 BROADWAY
NEW YORK, NEW YORK 10038
212-964-4845

160 SO. CENTRAL AVENUE
ELMSFORD, N. Y. 10523
914-592-4220

February 9, 1981

Federal Elections Committee
1325 K. St.
Washington, D.C. 20463

Attention: John D. Gibson, Acting Ass't. Staff Director
Reports Analysis Division

Re: July 15 Quarterly Report (4/1/80-6/30/80)
Identification #C00012013

Dear Mr. Gibson:

With respect to your letter of December 23, 1980 and your follow-up letter of January 16, 1981, please be advised that I write to answer them as attorney for the Masters, Mates and Pilots Pensioners' Action Fund.

I am sorry that the second quarterly report was confusing. Obviously without a further explanation, it would not make sense as you pointed out in your telephone conversation with me. Please be advised, however, that the Master, Mates and Pilots Pensioners' Action Fund had been collecting deductions from Pension members of the Union through their retirement from approximately 1970 forward.

The deductions had been processed by the International Union Pension Trust Fund. In January 1976 the International Organization of Master, Mates, Pilots decided to no longer turn over the deductions to Pensioners Action Fund but held them in an escrow account. Incidentally at about this same time, they created another fund called the Political Contributions Fund (PCF) and sought to have the contributors to the Pensioners Action Fund revoke their contributions authorizations.

Litigation followed with Pensioners Action Fund suing the International Organization for such action.

81040253747

John R. Harold

- 2 -

During the ensuing years, these deductions were held in an escrow account. Finally the litigation was settled.

The sum including interest, was in the amount of \$219,392.58 which money was paid over to the Pensioners Action Fund by check dated June 26, 1980, a photostat of which is forwarded herewith.

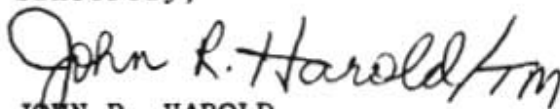
A stipulation settling this case was filed in the United States District Court, Southern District of New York, John E. Fields v. Master, Mates and Pilots, Index #77 Civ. 2077 (CMM).

The accountant for PAF broke the moneys received down into the escrow accumulated and interest from 1976 received from such accumulated moneys. That is the reason the break down was so reported in his quarterly report.

I trust this explanation is adequate for your purposes.

My apologies in the delay in not answering this communication.

Sincerely,


JOHN R. HAROLD

610475743

MASTERS, MATES AND PILOTS

PENSION FUND
NEW YORK, N.Y.

DATE	REFERENCE	AMOUNT	CODE
6/26/80	payment in full of deductions from Pensioners' monthly benefits pursuant to written authorizations (with interest thereon through June 25, 1980)	219,392.58	
	22-126		

REMITTANCE ADVICE

FORM 2000S

PLEASE DETACH AT PERFORATION BEFORE DEPOSITING CHECK

MASTERS, MATES AND PILOTS

PENSION FUND
NEW YORK, N.Y.1-67
210

The sum of \$219,392 and 58 cts. N° 3095

CHECK NO.
3095

PAY TO THE ORDER OF

M.M. & P. Pensioners' Action Fund

DATE

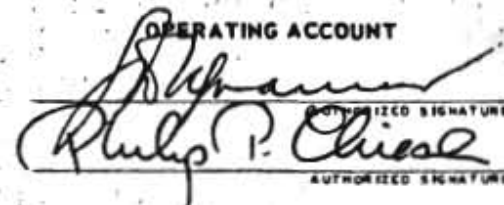
6/26/80

AMOUNT

\$219,392.58

IRVING TRUST COMPANY
ONE WALL STREET
NEW YORK

OPERATING ACCOUNT


 AUTHORIZED SIGNATURE

⑆0210⑈0067⑆01 152 049⑈



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 16, 1981

Pietro Mazzai, Treasurer
Masters, Mates & Pilots
Pensioners' Action Fund
150 Broadway
New York, NY 10038

Identification No: C00012013

Reference: July 15 Quarterly Report (4/1/80 - 6/30/80)

Dear Mr. Mazzai:

This letter is to inform you that as of this date, the Commission has not received your response to our request for additional information, dated December 23, 1980. That notice requested information essential to full public disclosure of your Federal election financial activity and to ensure compliance with provisions of the Federal Election Campaign Act (the Act). A copy of our original request is enclosed.

If no response is received within fifteen (15) days from the date of this notice, the Commission may choose to initiate audit or legal enforcement action.

If you should have any questions related to this matter, please contact Robert Snow on our toll-free number (800)424-9530 or our local number (202)357-0026.

Sincerely,

John D. Gibson
by *PKF*

John D. Gibson
Acting Assist. Staff Director
Reports Analysis Division

Enclosure

01040554750



FEDERAL ELECTION COMMISSION

WASHINGTON D.C. 20463

December 23, 1980

Pietro Mazzai, Treasurer
Masters, Mates & Pilots
Pensioners' Action Fund
150 Broadway
New York, NY 10038

Identification No: C00012013

Reference: July 15, 1980 Quarterly Report (4/1/80-6/30/80)

Dear Mr. Mazzai:

This letter is prompted by the Commission's preliminary review of your July Quarterly Report. The review raised questions as to specific contributions and/or expenditures, and the reporting of certain information required by the Federal Election Campaign Act. An itemization of these areas follows:

-Your second quarter report discloses a beginning cash-on-hand balance of \$153,034.94. All receipts for this period (\$220,889.58) were reported as being received on 6/30/80. Included in this figure is \$49,310 in "Interest" from the "Masters, Mates and Pilots Health and Benefit Plan", which you also reported as being received on 6/30/80. Total disbursements for this period were reported as \$17,320.68 with the final expenditure (\$7,500) being made on 6/24/80. This establishes a cash balance between \$153,034.94 and \$136,014.26 for which 30%-36% "Interest" for the calendar quarter was received from the "Health and Benefit Plan".

Please provide a clarification for the "Health and Benefit Plan" as an investment source and whether the "Interest" received was based on a time frame other than a calendar quarter. Please further clarify whether there is a separate account, apart from the general treasury account, from which the "Health and Benefit Plan" operates and disburses Interest or whether the Interest is disbursed from the General Treasury Account of the Masters, Mates and Pilots International Union.

If you have received a labor organization contribution, the Commission recommends that you refund the full amount to the donor. Although the Commission may take further legal steps concerning the acceptance of a prohibited contribution, your prompt refund of the contribution to the donor will be taken into consideration by the Commission.

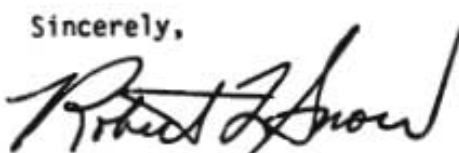
8104753751

Pietro Mazzai
Masters Mates & Pilots
Pensioners' Action Fund

2

An amendment to your original report correcting the above problems should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll free number, (800) 424-9530. My local number is (202) 357-0026.

Sincerely,



Robert Snow
Senior Reports Analyst
Reports Analysis Division

0104753752



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS/MARGARET CHANEY
OFFICE OF THE SECRETARY TO THE COMMISSION

DATE: January 27, 1981

SUBJECT: MUR 773 - Interim Conciliation Report #8,
dated 1-23-81, Received in OCS 1-26-81,
10:48

The above-named document was circulated to the Commission on a no-objection basis at 4:00, January 26, 1981

There were no objections to the Interim Conciliation Report at the time of the deadline.

81040253753

January 26, 1961

MEMORANDUM TO: Marjorie W. Simons
FROM: Elissa G. Carr
SUBJECT: MEA 773

Please have the attached Interim Investigative Report distributed to the Commission on a 24 hour no-objection basis. Thank you.

Attachment

DAK:son

cc: Gentner

81040253754



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE *MWE*
FROM: MARJORIE W. EMMONS/MARGARET CHANEY *[Signature]*
DATE: DECEMBER 18, 1980
SUBJECT: MUR 773 - Interim Conciliation Report #7
dated 12-9-80; Signed 12-16-80; Received
12-16-80, 2:18

The above-named document was circulated to the Commission on a 24 hour no-objection basis at 11:00, December 17, 1980.

There were no objections to the Interim Conciliation Report at the time of the deadline.

61010053755

December 16, 1960

MEMORANDUM TO: Marjorie M. Emons
FROM: Elissa T. Gatz
SUBJECT: MUR 773

Please have the attached Interim Council Report distributed to the Commission. Thank you.

61040253756



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE *mwe*
FROM: MARJORIE W. EMMONS/MARGARET CHANEY *mc*
DATE: OCTOBER 1, 1980
SUBJECT: ADDITIONAL OBJECTION TO MUR 773, Memorandum
to the Commission dated 9-29-80

Commissioner Aikens submitted an objection to the
above-named document at 3:09 this date.

You have been previously informed of objection by
Commissioners Friedersdorf and Reiche.

81040253757



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS/MARGARET CHANEY *mc*

DATE: OCTOBER 1, 1980

SUBJECT: ADDITIONAL OBJECTION - MUR 773, Memorandum
to the Commission, dated 9-29-80

You were advised earlier this date of an objection by
Commissioner Friederfdorf to MUR 773.

Commissioner Reiche submitted an objection at 9:58,
October 1, 1980.

81010253758



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS/MARGARET CHANEY *mc*

DATE: OCTOBER 1, 1980

SUBJECT: MUR 773 - Memorandum to the Commission
dated 9-29-80; Received in OCS 9-29-80,
10:35

The above-named document was circulated on a 48
hour vote basis at 4:00, September 29, 1980.

Commissioner Friedersdorf submitted an objection at
4:20, September 30, 1980.

This matter will be placed on the Executive Session
Agenda for Tuesday, October 7, 1980.

81040253759

September 29, 1980

MEMORANDUM TO: Marjorie W. Eymons
FROM: Jean Colgreve
SUBJECT: MUR 773

Please have the attached Memo to the Commission distributed on a 48 hour daily basis.

Thank you.

81040253760



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE *mwe*
FROM: MARJORIE W. EMMONS/MARGARET CHANEY *m*
DATE: SEPTEMBER 8, 1980
SUBJECT: MUR 773 - Interim Conciliation Report #7,
dated 9-4-80; Received in OCS 9-4-80,
2:57

The above-named document was circulated to the
Commission on a no-objection basis at 2:00, September 5, 1980.

There were no objections to the Interim Conciliation
Report at the time of the deadline.

810105761

September 4, 1980

MEMORANDUM TO: Marjorie W. Emmons
FROM: Elissa T. Carr
SUBJECT: MUR 773

Please have the attached Interim Council Report
distributed to the Commission. Thank you.

81040253762

June 6, 1980

MEMORANDUM TO: Marjorie W. Emons
FROM: Elissa T. Carr
SUBJECT: MUR 773

Please have the attached Memo distributed to the
Commission on a 48 hour tally basis. Thank you.

81040253763

81040251764
LAW OFFICES

LANDIS, COHEN, SINGMAN AND RAUH
1019 NINETEENTH STREET, N.W., SUITE 500
WASHINGTON, D.C. 20036

By Messenger

Mr. Charles N. Steele, Esq., General Counsel
Federal Election Commission
1325 K Street, N.W. 7th Floor
Washington, D.C. 20463



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE
FROM: MARJORIE W. EMMONS/MARGARET CHANEY *me*
DATE: MAY 5, 1980
SUBJECT: MUR 773 - Interim Conciliation Report #5
dated 5-1-80: Received in OCS
5-1-80, 3:39

The above-named document was circulated to the Commission on a 24 hour no-objection basis at 2:00, May 2, 1980.

There were no objections to the Interim Conciliation Report; however, Commissioner Reiche submitted a comment. A Copy of his vote sheet is attached.

ATTACHMENT:
Copy of Vote Sheet

81040253765

May 1, 1980

MEMORANDUM TO: Marjorie W. Symons
FROM: Elissa T. Gurr
SUBJECT: MUR 773

Please have the attached Interim Concil Report
distributed to the Commission. Thank you.

81040253766



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS/MARGARET CHANEY *me*

DATE: MARCH 24, 1980

SUBJECT: MUR 773 - Interim Conciliation Report dated
3-20-80; Received in OCS 3-21-80, 10:13

The above-named document was circulated to the Commission on a 24 hour no-objection basis at 2:00, March 21, 1980.

There were no objections to the Interim Conciliation Report at the time of the deadline.

61040253767

March 21, 1980

MEMORANDUM TO: Marjorie W. Edmons
FROM: Elissa T. Garr
SUBJECT: MUR 733

Please have the attached Interim Council Report
distributed to the Commission. Thank you.

81040253768

February 19, 1980

MEMORANDUM TO: Marjorie W. Ramona

FROM: Elissa T. Carr

SUBJECT: MUR 773

Please have the attached General Counsel's Report on MUR 773 distributed to the Commission on a 48 hour tally basis. Thank you.

81040253769



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE *mwe*
FROM: MARJORIE W. EMMONS/MARGARET CHANEY *mc*
DATE: FEBRUARY 21, 1980
SUBJECT: ADDITIONAL OBJECTION - MUR 773 -
General Counsel's Report dated 2-18-80

You were notified via memorandum dated February 20, 1980 of Commissioner Harris' objection to MUR 773.

Commissioner Friedersdorf has also submitted an objection received in this office at 10:04 this date.

81040253770



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS/MARGARET CHANEY *mc*

DATE: FEBRUARY 20, 1980

SUBJECT: OBJECTION - MUR 773 - General Counsel's
Report dated 2-18-80; Received in OCS
2-19-80, 10:48

The above-named document was circulated on a 48 hour vote basis at 4:00, February 19, 1980.

Commissioner Harris submitted an objection at 2:21, February 20, 1980, thereby placing MUR 773 on the Executive Session Agenda for Tuesday, February 26, 1980.

Attached is a copy of Commissioner Aikens' vote sheet with her comments regarding MUR 773.

ATTACHMENT:
Copy of Commissioner Aikens'
Vote Sheet

81040253771



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE *mwe*
FROM: MARJORIE W. EMMONS/MARGARET CHANEY *mc*
DATE: DECEMBER 4, 1979
SUBJECT: MUR 773 - Interim Conciliation Report
dated 11-30-79; Received in OCS
10:51, 12-3-79

The above-named document was circulated to
the Commission on a 24-hour no-objection basis
at 4:00, December 3, 1979.

There were no objections to the Interim Conciliation
Report at the time of the deadline.

81040251772

December 3, 1979

MEMORANDUM TO: Marjorie W. Eames
FROM: Jane Colgrove
SUBJECT: MUR 773

Please have the attached Interim Conciliation
Report on MUR 773 distributed to the Commission on a
24 hour no-objection basis.

Thank you.

81040253773



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

81040253774

MEMORANDUM TO: CHARLES STEELE *mwe*
FROM: MARJORIE W. EMMONS/MARGARET CHANEY *mc*
DATE: OCTOBER 18, 1979
SUBJECT: MUR 773 - Interim Conciliation Report
dated 10-15-79; Received in
OCS 10-17-79, 10:15

The above-named document was circulated to the Commission on a 24-hour no-objection basis at 4:00, October 17, 1979.

There were no objections to the Interim Conciliation Report at the time of the deadline.

October 17, 1979

MEMORANDUM TO: MARGE EMMONS
FROM: Jane Colgrove
SUBJECT: MUR 773

Please have the attached Interim Conciliation Report on MUR 773 distributed to the Commission on a 30 hour no-objection basis.

Thank you.

01040253775



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE *g*
FROM: MARJORIE W. EMMONS / MARGARET CHANEY *me*
DATE: SEPTEMBER 18, 1979
SUBJECT: MUR 773 - Interim Conciliation Report
dated 9-14-79; Received in
OCS 9-17-79, 7:38

The above-named document was circulated to the Commission on a 24-hour no-objection basis at 11:00. September 17, 1979.

There were no objections to the Interim Conciliation Report at the time of the deadline.

81090251778

September 14, 1979

MEMORANDUM TO: Marge Emmons
FROM: Elissa T. Carr
SUBJECT: NUR 773

Please have the attached Interim Concil Report on
NUR 773 distributed to the Commission.

Thank you.

81040253777

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
OFFICE OF THE
COMMISSIONER OF THE
FEDERAL ELECTION COMMISSION

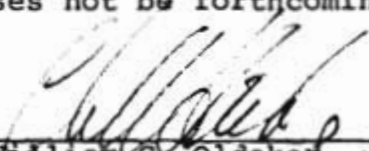
79 SEP 17 A7:30

In the Matter of)
) MUR 773
Masters, Mates & Pilots)
Political Contribution Fund)

INTERIM CONCILIATION REPORT

On August 16, 1979, the Commission found reasonable cause to believe the International Organization of Masters, Mates & Pilots (IOMMP) and its political action arm, the Masters, Mates & Pilots Political Contribution Fund (PCF), violated 2 U.S.C. § 441b(b)(4)(A)(ii) and 11 C.F.R. § 114.5(a)(2). Conciliation agreements were sent to the respondents; however, both the IOMMP and the PCF only recently received the letters notifying them of the Commission's findings along with the proposed conciliation agreements. Therefore, no response from the respondents or their attorney has, as yet, been received by this Office. Both respondents will be contacted by a staff member should such responses not be forthcoming.

14 September 1979
Date


William C. Oldaker
General Counsel

8104051778



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20463

August 22, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Frank T. Scavo, President
International Organization of Masters,
Mates and Pilots
39 Broadway
N.Y., New York 10006

Re: MUR 773

Dear Mr. Scavo:

The Federal Election Commission has found reasonable cause to believe that the International Organization of Masters, Mates and Pilots (IOMMP) has violated 2 U.S.C. 441b(b)(4)(A)(ii) by soliciting contributions to the Masters, Mates and Pilots Political Contribution Fund. (PCF), from those who are not members of the IOMMP, and 11 CFR 114.5(a)(2) by using PCF solicitation forms that do not inform the contributor of his right to contribute more or less than the suggested amount.

Please be advised that the Commission is under a duty to make every endeavor for a period of not less than thirty (30) days to correct such violation by informal methods of conference, conciliation and persuasion, and to enter into a conciliation agreement. 2 U.S.C. § 437g(a)(5)(A). If we are unable to reach agreement during that period, the Commission may, upon a finding of probable cause to believe a violation has occurred, institute civil suit. 2 U.S.C. § 437g(a)(5)(B).

Enclosed please find a conciliation agreement which this office is prepared to recommend to the Commission in settlement of this matter. If you agree with the provisions of this agreement, please sign it and return it to the Commission within ten days of your receipt of this letter.

If not, please contact Ms. Marsha Gentner, the attorney assigned to this matter, at (202) 523-4073 to discuss your objections to the agreement.

Sincerely,

William C. Oldaker

William C. Oldaker
General Counsel

cc: Mr. Julian H. Singman
Landis, Cohen, Singman and Raugh
1019 19th. Street N.W.
Suite 500
Washington, D.C. 20036

94R 773 46

PS Form 3811, Apr 1977 RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

● SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).
☐ Show to whom and date delivered. _____ c
☐ Show to whom, date, and address of delivery. _____ c
☐ RESTRICTED DELIVERY
Show to whom and date delivered. _____ c
☐ RESTRICTED DELIVERY
Show to whom, date, and address of delivery. \$ _____
(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
Frank T. Sauer

3. ARTICLE DESCRIPTION:
REGISTERED NO. CERTIFIED NO. INSURED NO.
943595

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent
Frank T. Sauer

4. DATE OF DELIVERY *8-27-79* POSTMARK *NEW YORK*

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Frank T. Scavo, President
International Organization of Masters,
Mates and Pilots
39 Broadway
N.Y., New York 10006

Re: MUR 772

Dear Mr. Scavo:

The Federal Election Commission has found reasonable cause to believe that the International Organization of Masters, Mates and Pilots (IOMMP) has violated 2 U.S.C. 441b(b)(4)(A)(ii) by soliciting contributions to the Masters, Mates and Pilots Political Contribution Fund (PCF), from those who are not members of the IOMMP, and 11 CFR 114.5(a)(2) by using PCF solicitation forms that do not inform the contributors of his right to contribute more or less than the suggested amount.

Please be advised that the Commission is under a duty to make every endeavor for a period of not less than thirty (30) days to correct such violation by informal methods of conference, conciliation and persuasion, and to enter into a conciliation agreement. 2 U.S.C. § 437g(a)(5)(A). If we are unable to reach agreement during that period, the Commission may, upon a finding of probable cause to believe a violation has occurred, institute civil suit. 2 U.S.C. § 437g(a)(5)(B).

Enclosed please find a conciliation agreement which this office is prepared to recommend to the Commission in settlement of this matter. If you agree with the provisions of this agreement, please sign it and return it to the Commission within ten days of your receipt of this letter.

Re
8/20/74

- 2 -
If not, please contact Ms. Marsha Gantner, the Attorney
assigned to this matter, at (202) 525-4073 to discuss your
objections to the agreement.

Sincerely,

William C. Oldaker
General Counsel

cc: Mr. Julian H. Singman
Landis, Cohen, Singman and Raugh
1019 19th. Street N.W.
Suite 500
Washington, D.C. 20036

81040253702



FEDERAL ELECTION COMMISSION

WASHINGTON, D C 20463

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS *MJE by jc*

DATE: AUGUST 14, 1979

SUBJECT: OBJECTION - MUR 773 - General Counsel's
Report dated 8-9-79; Received
in OCS 8-10-79, 11:38

The above-named document was circulated on a 48
hour vote basis at 2:00, August 10, 1979.

Commissioner Friedersdorf submitted an objection
at 2:02, August 14, 1979, thereby placing MUR 773 on the
Executive Session Agenda for August 16, 1979

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August 10, 1979

MEMORANDUM TO: Marge Emmons
FROM: Jane Colgrove
SUBJECT: MUR 773

Please have the attached General Counsel's Report on MUR 773 distributed to the Commission on a 48 hour tally basis.

Thank you.

61040251784

RECEIVED
OFFICE OF THE
COMMISSIONER OF THE
BEFORE THE FEDERAL ELECTION COMMISSIONARY

In the Matter of)

Masters, Mates, and Pilots)
Political Contribution Fund,)
et al)

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MUR 773

GENERAL COUNSEL'S REPORT

Background and Summary of Commission Action

This matter stems from an audit for cause of the Masters, Mates, and Pilots Pensioners Action Fund ("PAF").

In 1970, the International Association of Masters, Mates and Pilots ("IOMMP") began to solicit contributions to a political fund from pensioners who had been members of the IOMMP before retiring. This fund registered with the Clerk of the House of Representatives in April, 1973, as the PAF, listing the IOMMP as its connected organization. Solicitation of pensioners continued, in the form of a request to authorize a 3% deduction from each pensioner's monthly pension benefit check, to be transferred by the Masters, Mates and Pilots Pension Fund ("Pension Fund") administrator to the PAF.

Following an internal dispute, new officers of the IOMMP were elected in early 1976. The new IOMMP leadership determined that its political fund should represent actively employed members of the union as well as pensioners, and so a new political fund, the Masters, Mates and Pilots Political Contribution Fund ("PCF") was established. The PCF registered with the Commission on November 19, 1976,

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listing the IOMMP as its connected organization. A letter was sent to pensioners requesting that they switch authorization of a deduction from their pension benefit checks from the PAF to the PCF, offering a 2% deduction in lieu of the PAF 3% deduction.

In February of 1976, allegedly upon instructions from IOMMP officers^{1/}, the Pensioner Fund administrator ceased transferring to PAF the funds "collected" pursuant to the pensioners' authorizations of 3% PAF deductions. These funds have been accumulating in a Pension Fund account. In April 1977, the PAF filed a lawsuit in the district court of the Southern District of New York to secure release of these funds. The lawsuit is premised on federal pension law and is pending.

On March 8, 1979, the Commission found reason to believe the IOMMP and the PCF violated 2 U.S.C. §441b(b)(4)(A)(ii) by soliciting contributions to the PCF from those who were not members of the union. The Commission also found reason to believe the IOMMP and PCF violated 11 CFR 114.5(a)(2) by not informing those solicited that they could contribute more or less than the guidelines suggested in their solicitations.

^{1/} This allegation is one that is in dispute in the pending lawsuit between the PAF and the Pension Fund Administrator. Fields v. Masters, Mates & Pilots Pension Plan, et al, No. 77-2077 (S.D.N.Y.).

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LEGAL ANALYSIS

A. Affiliation

Upon referring this matter to the General Counsel's Office, the auditors sought advice on whether the PAF and PCF are to be considered affiliated committees under 2 U.S.C. § 441a(a)(5) and 11 CFR 100.14(c)(2). This question is significant because if these committees are not affiliated and the PAF loses the lawsuit concerning the Pension Fund deductions, any of these funds in excess of \$5,000 that are transferred to the PCF would be in violation of 2 U.S.C. § 441a(a)(2)(C).

This office advised the Commission that in light of the facts of this matter, it appears the PAF and PCF are affiliated under 11 CFR 100.14(c)(2) by virtue of the fact that they were established by a common connected organization, the IOMMP. See General Counsel's Report, MUR 773, Part A, March 1, 1979. However, a determination that certain committees are affiliated only has relevance in the context of possible violations of 2 U.S.C. § 441a. There are no federal election campaigns to which the PAF and PCF have contributed a total of more than \$5,000. See Attachment I. Since no violation of the Act's contribution limitations has yet occurred, even if the PAF and PCF are affiliated, the Commission could not make a determination as to affiliation. The Commission, aware of this problem, determined that the auditors should inform the PAF, PCF and IOMMP that they may be deemed affiliated for purposes of the limitations in § 441a(a)(2)(A), and that an advisory opinion request be submitted if an official determination of this issue was desired.

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B. Commingling

Because the PAF authorized funds have not been transferred since February, 1976, but rather are accumulating in a Pension Fund account, the auditors expressed concern that political monies were being commingled with pension funds. If such were the case, a possible violation of 2 U.S.C. § 441b(a) could occur when and if the political funds were eventually transferred to the PAF or PCF and used in federal elections, in that the pension monies might be considered to be corporate and/or union funds. See General Counsel's Report, MUR 773, Part D, March 1, 1979. The Commission determined that the

auditors should request the Pension Fund administrator to segregate all authorized political monies into an escrow account in order to avoid any possible violations of the Act in the future. An audit division staff member contacted the Pension Fund administrator and was informed that these funds have in fact been in a separate, segregated account since January, 1979. The attorney for PAF, the opposing party to the Pension Fund administrator in the lawsuit concerning these funds, confirmed to a staff attorney that the authorized political monies are in a separate account from other Pension Fund monies. The General Counsel's Office therefore recommends the Commission take no further action concerning commingling of PAF authorized and Pension Fund monies.

C. Membership

The PCF admittedly solicits pensioners as well as actively employed members of the IOMMP for contributions to the political fund. 2 U.S.C. § 441b(b)(4)(A)(ii) requires that a union solicit only its members for contributions to the union political action arm. Thus, if pensioners/retirees are not members of the IOMMP, § 441b(b)(4)(A)(ii) has been violated by the PCF and the IOMMP.

11 CFR 114.1(e) defines a "member" of a labor organization as one who currently satisfies the requirements for membership in the local, national, or international organization. The constitution of the IOMMP ("the constitution") (Attachment IV)

adopted October 14, 1977, does not include within its jurisdiction retirees or those not presently employed or engaged in the navigation, pilotage, and movement of merchant vessels or handling of waterborn cargo. Article II, § 1.; Article III, § 1(a). Nor are pensioners included in any of the membership groups listed in the constitution. Article III § 1(h). Article III, § 2(f) of the constitution, entitled "Duties and Responsibilities of Members to the Organization" requires that the IOMMP member keep himself in "good standing." To be a "member in good standing" the individual must have paid the union dues for the current quarter. Article III § 5(a). Pensioners do not pay dues to the IOMMP, and therefore do not meet a key requirement for membership in the organization. Article VIII. See also, Advisory Opinion 1977-67 (non-stock corporation permitted to solicit as "members" those who regularly paid dues or had them specifically waived).

The PCF, through its attorney, argues that pensioners who were members in good standing prior to retirement have not lost their membership status for non-payment of dues since as "honorary members" they are not required to pay dues. 2/ In Advisory Opinion 1977-67, a showing of a

2/ In determining whether an individual or group of individuals qualify as "members" of an organization, the fact that the organization considers the individuals in question to be members and denominates them as members, should not be persuasive. Otherwise, a labor organization could designate the whole world as "members" and thus avoid any limitations on whom it could properly solicit.

specific waiver of payment of dues, not a broad general waiver, was required to establish a non dues paying individual could be a member of the organization. In addition, IOMMP constitution Article III § 5(d) and (e) sets the standard under which a waiver of dues may be sought; however, retirees and pensioners do not come within the scope of this standard.

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The Commission has stated that the solicitation of political contributions from members is based on the special relationship a member has to the organization, as evidenced "by the existence of rights and obligations vis a vis the [organization]." Advisory Opinion 1977-67 at 5. In reviewing the rights and obligations of IOMMP members as set out in the constitution, it appears that pensioners lack such rights and obligations in certain critical areas. The IOMMP constitution provides that members have the right to institute petitions for and vote on referenda, Article III, § 4(a) and (h)(5), to vote on the ratification of a collective bargaining agreement, Article III § 4(h)(4), to vote on constitutional amendments, Article X, and to observe and attend IOMMP convention sessions and committee meetings. Article IV, § 6(d). Pensioners do not have any of these rights. Article III, § 7, Article 4, § 6(d). See also Response from PCF/IOMMP attorney, at 5 (Attachment II).

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Nor do pensioners have an effective voice in the IOMMP, or the ability to participate in the policy making process of the union. Unlike actively employed members of the IOMMP, i.e., those in "good standing", pensioners are not eligible to become IOMMP officers or delegates to IOMMP conventions. Article V, § 4; Article IV, § 4(a) (iv); Article III, § 7. Pensioners cannot vote in elections of IOMMP officers. Article V, § III, Article III § 7. The absence of the right to vote in elections, the inability to serve as officers, and the lack of the same status in the organization as "full members" were considered "significant" factors in the Commission's determination in Advisory Opinion 1977-17 that certain individuals were not "members" within the meaning of 11 CFR 114.1(e).

In enacting 2 U.S.C. § 441b(b)(4)(A)(ii), Congress was interested in assuring that unions would "only solicit those they represent." H.R. Rep. No. 94-917, 94th Congress, 2nd Session 7 (1976). The Supreme Court has determined, in the context of the National Labor Relations Act ("NLRA") that a union is not entitled to act as a retiree's representative for collective bargaining purposes, and in fact has no statutory duty to represent retirees. 3/ Allied Chemical

3/ Neither does the IOMMP have a constitutional duty to represent retirees, as nothing in the IOMMP constitution confers such a responsibility on the union.

and Alkali Workers v. Pittsburgh Plate Glass Co., 404 U.S. 157, 181 n.20 (1971). The Court found that retirees do not have a "mutuality of interest" with those actively employed, but rather may often have conflicting interests. Id. at 172-73.

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The IOMMP and PCF, through their attorney, argue that the IOMMP represents retirees in negotiations concerning pension benefits. To the extent such negotiations do not implicate the future pension benefits of active employees, under the NLRA, the negotiations need not be initiated or pursued by either the IOMMP or the employer organization. Id. at 181. Therefore, the decision by the IOMMP (and the employer) to bargain over pension benefits is purely a gratuitous one, and the union could withdraw from such practices or adopt a conflicting course of action at anytime, making the alleged representation illusory. Retirees have no recourse if IOMMP bargaining efforts on their behalf cease, and they lack the ability to direct the course of such "representation," since they have no enforceable rights in the IOMMP in terms of a voice in IOMMP policy matters, collective bargaining contracts, or the election of representatives.

It seems apparent that the IOMMP also recognizes pensioners are not accorded actual membership status in the union. Section 411 of the Labor-Management Reporting and Disclosure Act of 1959, 29 U.S.C. § 401, et seq., entitled "Bill of Rights of

Members of Labor Organizations", requires that "every member" 4/ of a labor organization shall have equal rights and privileges in the organization with respect to nomination and election of officers, and votes on referenda. 29 U.S.C. § 411(a)(1). However, pensioners do not have equal rights in these areas to those of IOMMP members in "good standing." Presumably, this is because the IOMMP considers pensioners as not having true membership status in the organization, as it does not seem likely the IOMMP would blatantly violate 2 U.S.C. § 411 in this manner by the very terms of its constitution.

The PCF/IOMMP attorney refers to various sections of the IOMMP constitution to show that pensioners have certain enforceable rights in the organization. See Attachment II, at 5. Every section of the constitution cited refers to such rights as the rights of "members", and not pensioners. See Attachment IV. Yet, the precise question in issue is which individuals are members. Thus, the evidence cited is not persuasive.

4/ 29 U.S.C. § 402(o) defines "member" as:

any person who has fulfilled the requirements for membership in such organization, and who neither has voluntarily withdrawn from membership nor has been expelled or suspended from membership after appropriate proceedings consistent with lawful provisions of the constitution and bylaws of such organization.

This definition incorporates basically the same standard as 11 CFR 114.1(e) -- that a member is one who has fulfilled the requirement for membership in the organization.

Under the foregoing facts, it appears that pensioners do not enjoy the same status as actively employed members of the IOMMP in terms of the organization's responsibilities to those individuals, the individual's eligibility to participate in IOMMP policy making, and other rights vis a vis the organization. Pensioners likewise do not share in the concurrent responsibilities to the IOMMP, such as the payments of dues, that members in good standing must meet. In light of this, the Office of General Counsel recommends the Commission find that pensioners are not members of the IOMMP and that there is reasonable cause to believe the IOMMP and PCF violated 2 U.S.C. § 441b (b)(4)(A)(ii) by soliciting PCF contributions from pensioners. 5/

The PAF, which is still registered as an IOMMP connected organization, also solicited pensioners for contributions. However, no funds thus solicited have been received by the PAF since February, 1976. 2 U.S.C. § 441b(b)(4)(A)(ii) did not go into effect until June, 1976. As no political fund within the jurisdiction of the Federal Election Campaign Act has yet received these monies solicited from an allegedly improper class, the Office of General Counsel recommends the Commission take no further action against the PAF concerning the solicitation of pensioners until such time, if ever, as the PAF receives those funds.

5/ The attached proposed conciliation agreement does not require return of all monies contributed as a result of the improper solicitation. The issue of whether pensioners are "members" of the IOMMP is a close one, and the action by the union in soliciting this class was not invidious. The proposed conciliation agreement, therefore, seeks a civil penalty and "declaratory" or prospective relief and does not seek retroactive relief.

D. Solicitation

The PCF used the affirmative check-off procedure to collect contributions from pensioners and those participating in the Masters, Mates and Pilots Vacation Plan. One of the authorization forms used by the PCF and IOMMP provides for a 2% deduction, but does not inform the contributor of the option to contribute more or less than this amount. In fact, this form, as well as a letter accompanying it sent to some individuals, uses the 2% figure to entice individuals to switch their authorization from the PAF to the PCF. Attachment III. Presented in such a manner, many individuals thus solicited may have believed that less than 2% could not be contributed. Two other forms used listed different amounts and instructed the individual solicited to check one amount, but nowhere informed the individual that more or less could be contributed. Attachment III. The General Counsel's Office therefore recommends that the Commission find reasonable cause to believe the PCF and IOMMP violated 11 CFR 114.5(a)(2) by not informing those solicited that more or less than the guidelines suggested could be collected.

RECOMMENDATIONS

1. Take no further action against the PCF and PAF concerning their possible affiliation.
2. Take no further action against the PAF and the IOMMP Pension Fund concerning any past commingling of pension funds and PAF authorized funds.

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3. Find reasonable cause to believe the IOMMP and PCF violated 2 U.S.C. § 441b(b)(4)(A)(ii) by soliciting contributions to the PCF from those who are not IOMMP members.
4. Find reasonable cause to believe the IOMMP and PCF violated 11 CFR 114.5(a)(2) by not informing those solicited of their option to contribute more or less than the amount suggested in the solicitation.
5. Approve and send the attached conciliation agreements.

8/9/79
Date


William C. Oldaker
General Counsel

Attachments:

- List of PAF and PCF 77-78 federal contributions - I
- Response from IOMMP/PCF attorney - II
- Letter from IOMMP and PCF authorization forms - III
- IOMMP constitution - IV
- Conciliation Agreements (2) and letters (2)

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Attachment 6007 10229

FEDERAL ELECTION COMMISSION

LAW OFFICES
LANDIS, COHEN, SINGMAN AND RAUH
1019 NINETEENTH STREET, N.W., SUITE 500
WASHINGTON, D.C. 20036
(202) 785-2020

JAMES M. LANDIS (1899-1964)
WALLACE M. COHEN *
JULIAN H. SINGMAN
B. MICHAEL RAUH
ANDREW D. BALL *
MARTIN SHULMAN *

79 MAY 24 10:03
MAIL ROOM
LACON WASHINGTON, D.C.

May 25, 1979

HARRY FRIEDMAN
COUNSEL

* NOT ADMITTED IN VIRGINIA

VIRGINIA OFFICE
10100 MAIN STREET
FAIRFAX, VIRGINIA 22031
(703) 591-0100

William C. Oldaker, Esq., General Counsel
Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20463

902518

Re: MUR 773 (78)

Dear Mr. Oldaker:

With further reference to your letters of March 13, 1979 addressed to Mr. Frank T. Scavo, former President of the International Organization of Masters, Mates and Pilots, and Mr. Harry Seidman, Treasurer of the MM&P Political Contribution Fund, and with further reference to my letter to you of April 25, 1979, I wish first of all to apologize for the delay in responding further to you on this matter. The delay unfortunately was occasioned by the fact that various officers of the Organization have been constantly in travel status with respect to a number of Union emergencies throughout the country, and it was therefore impossible to secure all of the factual information required to respond fully to your letters until now.

We have already responded to your question concerning possible violations of 11 C. F. R. 114.5(a) and would appreciate a prompt response to my April 25 letter so that, if acceptable, we can make the changes there suggested.

With respect to the question concerning your reason to believe that the Organization and the PCF may have violated 2 U. S. C. §441b(b)(4)(A)(ii), we have previously indicated that, in the judgment of both the Organization and the PCF, solicitations of contributions to the PCF have never been made "from those who are not members of the International Organization of Masters, Mates and Pilots." In fact, as we stated in my April 25 letter, we have solicited only active and retired members of the Organization and have in fact received contributions from active and retired members of the

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William C. Oldaker, Esq.
May 25, 1979
Page Two

Organization only. From my conversations with your assistant counsel, Ms. Gentner, I learned that the chief question in this regard appears to be whether or not retired members of the Organization are "members" for purposes of the statute and for purposes of your regulation §114.1(e). We take the position that they are and hope you will agree with us.

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Your regulation defines members of a labor organization as "persons who are currently satisfying the requirements for membership in a local, national or international labor organization." Ours is an international labor organization, and our retired members do meet our requirements for membership. In this connection I am enclosing for your use two copies of the current Constitution of the Organization and call your attention specifically to Article III, Section 6, of the Constitution dealing with "Termination of Membership." You will note from that provision that once a member of the Organization has met the requirements for membership which are stated earlier in Article III under Section 1 (and I believe there is no question that "retired members" at least once were "members"), there are only two ways for a member's membership to be finally terminated. The first, under Section 6(a), is by voluntary application for termination, and the second, under Section 6(b), is by suspension for nonpayment of obligations. In addition, under Section 10 of Article III there is a special provision that permits temporary withdrawals and reinstatements of members in special circumstances -- again, only by application.

You will note from Article III, Section 5(c) that a member is suspended only if he is "in arrears in dues and assessments or other indebtedness for six (6) months." Inasmuch as retired members are relieved of the obligation to pay dues or assessments, retired members cannot be suspended under that section. None of our retired members who have asked for termination is solicited.

Of course, retired members are not members "in good standing" as required by Section 5(a), but they are nonetheless members of the Organization and have always been considered so by the Organization without exception.

The precedential authority which we have been able to find that throws the most significant light on the Federal Election Commission's understanding of the term "member" is in Advisory Opinion 1977-67 issued with respect to the Public Service Political Action Committee. That Advisory Opinion emphasizes a number of significant points:

William C. Oldaker, Esq.
May 25, 1979
Page Three

First, that "a person can only be considered a member of an organization if he or she knowingly has taken some affirmative steps to become a member of the organization." Page 4 of the Advisory Opinion. Of course, in the case of our retired members, that requirement has previously been met before retirement.

Second, that the solicitation of political contributions from members is based upon "the special relationship that the organization has to its members" and that such relationship "must be evidenced by the existence of rights and obligations vis-a-vis the [Organization]." Page 5 of the Advisory Opinion. Later in this letter we will set forth such rights and obligations.

Finally, that membership necessarily includes the right and opportunity to participate in policy-making of the organization by expression of views. Page 6 of the Advisory Opinion. We will also address this matter a bit later in this letter.

We wish also to call your attention to the Concurring Opinion of Chairman Aikens addressing itself specifically to labor organizations and cautioning against literal and strict comparisons between labor organizations and corporations. Her Concurring Opinion emphasizes that union members are "interested in improved wages and working conditions as negotiated through the collective bargaining process" and specifically refutes the notion that "mere payment of pre-determined dues" is a necessary indicium of membership. Page 2, Concurring Opinion. Note, too, that the Dissenting Opinion of Commissioners Harris and Staebler emphasizes that, "A bona fide membership organization is one which represents its members." Page 4 of the Dissent. As we will demonstrate, the Organization does in fact represent retired members, as well as active members in good standing.

In support of our position that the Organization's retired members meet the foregoing principles in defining for purposes of the Commission what a "member" is, we offer the following facts:

1. The Trust Agreement establishing the MM&P PCF specifically requires that the Board of Trustees (the governing body of the Fund) must contain "three retired members of the MM&P." Article II, Section 2, of the Agreement and Declaration of Trust. In addition, the Purposes of the Fund set forth in Article IV of the Agreement and Declaration of Trust refer to support and improvement of "members of the union, active, future or retired." Paragraphs 1 and 2.

William C. Oldaker, Esq.
May 25, 1979
Page Four

2. The principal functions of the Organization as set forth in the Preamble to the Constitution and in Article I, Section 3, include improvement of economic status for the industry generally and all its members and, in Section 3, specifically states as a purpose of the Organization "to improve ... retirement benefits of its members." In fact, the Organization does act to benefit all its members, including the retired members, and does bargain collectively for its retired members on each occasion that a new contract with employers is negotiated and executed. Part of every such agreement are provisions dealing with the payment of pensions to retired members, improvement of those pensions (for already retired members) and, most importantly, the funding of liabilities for past service of retired members. It is significant that at this very time the Organization is engaged in a major confrontation with the employers with whom it has contracts over the interpretation of a provision in the collective bargaining agreement entered into last June concerning a change in retirement benefits.

3. Article III, Section 2, of the Constitution sets forth certain duties and responsibilities for the members of the Organization. Subsection 2(b) designates the Organization as the exclusive bargaining representative of every member for resolution of grievances, difficulties or disputes, as well as for terms and conditions of employment. In fact, the Organization does negotiate disputes and grievances for its retired members. It represents retired members in disputes with former employers on a variety of subjects. It does more. It represents the surviving members of families of deceased retired members with respect to Medicare, Social Security, claims for welfare and retirement benefits, and claims against employers.

4. Article III, Section 2, also establishes a number of other duties and responsibilities for members, as does Section 3 of the same Article. With respect to the latter, retired members often are expected to, and do, perform picket duty when so required. Disciplinary actions are sometimes brought against retired members for violations of such duties and responsibilities or for violation of other responsibilities set forth in other sections of the Constitution. When this is done, such retired members have all of the rights established under Article III, Section 4(e) and Article IX, Section 3, of the Constitution.

5. Under Section 4 of Article III, certain rights of members are set forth. As pointed out earlier, retired members are not "members in

William C. Oldaker, Esq.
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good standing" and therefore may not vote in referenda or elections. Other rights in that section are, however, extended to retired members. For example:

A. Every retired member of the Organization, as any member, has "the right to meet and assemble freely with other members ... to express at meetings his views upon candidates in any election or upon any business properly before the meeting." Section 4(b). In fact, retired members are welcome at any of the many meetings of the Organization, wherever held, at International Conventions, at meetings of the jointly-trusted Boards for Pension, Welfare, Training and other Funds and some do, in fact, frequently attend such meetings.

B. Retired members, just as any other members, have the rights set forth in Section 4(d) to institute any action or proceeding even against the Organization or its officers without retaliation.

C. As pointed out above, retired members as well as any other members have the rights under Section 4(e) that are similar to the rights preserved under Article IX, Section 3.

D. Every retired member of the Organization, just as any other member, is given a copy of the Collective Bargaining Agreement in effect between the Organization and employers, as required under Section 4(f).

E. Every retired member of the Organization, as well as active members in good standing, receives the official organ (newspaper) of the Organization and may publish and circulate to other members petitions, leaflets, or other written material.

F. Every retired member of the Organization has the same access to publication in the official newspaper of the Organization letters to the editor, columns or articles, as provided in Section 4(h)(6).

In short, the retired members of the Organization have virtually every right (and responsibility) of active members in good standing except for the right to vote or run for office. They have always been considered by the Organization and are now considered by the Organization members in every sense of that word except as just noted. In this connection, I wish to call attention to the membership structure of the Organization as set forth in Article III, Section 1(h), which establishes the structure of

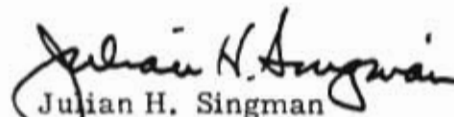
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membership groups in this Organization, a structure somewhat different and original as compared to most other labor organizations. This provision, because of the peculiar needs of this Organization, creates various categories of members. Retired members are considered by the Organization to be a special membership group under that provision, although they are not (for a number of reasons) specifically set forth by name in that Subsection. Moreover, as will be plain from Article V, Section 3, members of one membership group are not eligible to vote for the officers of another membership group, just as "retired members," for example, may not vote for the officers of any of the other membership groups.

I hope you will find this material responsive to your question and helpful in understanding the position of the Organization and its PCF. If you have any further question about this matter, however, please don't hesitate to let me know.


Sincerely yours,



Julian H. Singman
Washington Counsel
International Organization of Masters,
Mates and Pilots

Enclosures
JHS:mco

31040053803



Masters, Mates & Pilots

30 Broadway, New York, N.Y. 10006/(212) 425-3000/Cable: BRIDGEDECU/Telex No. 12-6050

FRANK T. SCAVO
International President
GERALD L. JOHNSON
International Executive Vice President
ROBERT J. LOWEN
International Secretary-Treasurer

November 19, 1976

Dear Sir and Brother:

For sometime now you have been voluntarily contributing a portion of your pension check to the MMGP PENSIONERS ACTION FUND. Three percent of your pension check has been collected by the Pension Plans Administrator as your contribution, pursuant to your written authorization. This fund has been administered from time to time by a Board of five Trustees consisting of active or retired MMGP members. The money in that fund has been used principally for making political contributions to further the interests of the MMGP members and pensioners.

The members of the MMGP General Executive Board have been reviewing this PENSIONERS ACTION FUND and its administration and have decided that it ought to be expanded, reorganized and improved. They have concluded that the burden rests too heavily upon the pensioners of the Offshore Division. They have decided, therefore, that all members of all the subordinate bodies of the Organization, which includes the Offshore Division, Pilots, Inland and Government Employees' Division, in addition to retired members will be encouraged to contribute to this fund on a voluntary basis.

In addition, your General Executive Board members believe that this Fund should be supervised and administered by Trustees representing all Divisions, including pensioners. Therefore, the General Executive Board has reorganized the fund, and to insure that the interests of the retired members are represented, the new Trust document requires that three members of the new MMGP POLITICAL CONTRIBUTION FUND Board of Trustees must be retired Pensioners of the MMGP. Also, to insure better communication with the contributors so that you will all know exactly what is being done with your money, periodic newsletters will be sent to contributors by the new Board, operating out of the International Offices of the MMGP.

In view of the foregoing, your MMGP General Executive Board members have authorized us to broaden the base of the new Trust fund and make it less burdensome on you. Therefore, we

EXHIBIT C

November 19, 1970

are sending you enclosed herewith a new pension deduction authorization form which will authorize only a 20 deduction from your monthly pension check rather than the present 30 and direct that it be remitted to the Trustees of the new MM&P POLITICAL CONTRIBUTION FUND. The new Fund will do everything the old Pensioners Action Fund did -- and more -- and will do it better and more efficiently.

Fraternally,


Frank T. Scavo

For
TRUSTEES OF MM&P
POLITICAL CONTRIBUTION FUND

TRUSTEES:

Frank T. Scavo, President, International Organization of Masters, Mates & Pilots

Gerald L. Johnson, Executive Vice President, International Organization of Masters, Mates & Pilots

Robert J. Lowen, Secretary-Treasurer, International Organization of Masters, Mates & Pilots

Allen C. Scott, Regional Director, Inland Division, International Organization of Masters, Mates & Pilots

David A. Boyle, Regional Director, Western Region, International Organization of Masters, Mates & Pilots

Robert O. Elsensohn, Vice President, Pilots Division, International Organization of Masters, Mates & Pilots

Peter D. Fay, Pensioner

Henderson H. Hagler, Pensioner

Elmer Alford, Pensioner

8101053905

MM&P PENSION PLAN
Pension Deduction Authorization Card

(b)

YES, I, _____

(Print name)

Soc. Sec. No. _____

want to participate in the new MM&P Political Contribution Fund. Accordingly, I hereby revoke the previous authorization to deduct 3% from each of my monthly pension checks for payment to the MM&P Pensioners' Action Fund and hereby authorize the Administrator of the MM&P Pension Plan to deduct only 2% from each of my monthly pension checks and forward such amounts to the Trustees of the MM&P Political Contribution Fund. I understand that this is a voluntary contribution and I make it on that basis. I further understand that the money in the MM&P Political Contribution Fund will be used for political contributions, for educational campaigns, to defray expenses, and such associated expenditures to benefit the Organization, its members, present, future and retired, and the maritime industry. I would also like, insofar as is possible, to have all prior contributions made by me to the MM&P Pensioners' Action Fund transferred to this new MM&P Political Contribution Fund.

Date _____

Pensioner's Signature _____

(Signed Authorization Card should be returned in enclosed self-addressed envelope.)

so that you will all know exactly what is being done with your money, periodic newsletters will be sent to contributors by the new Board, operating out of the International Offices of the MM&P.

In view of the foregoing, your MM&P General Executive Board members have authorized us to broaden the base of the new Trust fund and make it less burdensome on you. Therefore, we

EXHIBIT C

81040253806

M.M.&P. POLITICAL CONTRIBUTION FUND

I hereby authorize the Administrator of the M.M. & P. Vacation Plan to deduct from my current vacation check the sum of:

☐ 25¢ For each day of paid vacation benefit

☐ \$100

☐ \$50

(Please check one box)

☐ \$25

☐ \$15

☐ \$10

and forward such amounts to the I.O.M.M. & P. Political Contribution Fund. I understand that this is a voluntary contribution and I make it on that basis.

I further understand that the money in the Political Contribution Fund will be used for political contributions, for educational campaigns, to defray expenses, and such associated expenditures to benefit the Organization, its members, present, future and retired, and the maritime industry as the Trustees may determine.

Political Contribution

Receipt Number _____

Part of _____

Date _____

Member's Signature _____

Date _____

EDP Code _____

PCF

501

MM&P POLITICAL CONTRIBUTION FUND

39 BROADWAY, NEW YORK, N. Y. 10006

\$5.00	\$10.00	\$15.00	\$20.00	\$25.00	\$50.00	\$100.00
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Please (✓) Appropriate Box

RECEIPT IS HEREBY ACKNOWLEDGED FROM

NAME _____

ADDRESS _____

CITY _____

STATE _____

ZIP _____

SOCIAL SECURITY NUMBER _____

OF THE SUM OF \$ _____

AMOUNT CHECKED (✓) ABOVE

VOLUNTARILY CONTRIBUTED FOR POLITICAL PURPOSES TO MM&P POLITICAL CONTRIBUTION FUND. NO PHYSICAL FORCE, JOB DISCRIMINATION, FINANCIAL REPRISALS, OR THREAT THERE-OF HAS BEEN USED IN ANY WAY TO SECURE THIS CONTRIBUTION. THE CONTRIBUTOR HAS BEEN ADVISED OF HIS RIGHT TO REFUSE TO SO CONTRIBUTE WITHOUT ANY REPRISAL AND THIS CONTRIBUTION IS ENTIRELY VOLUNTARY.

AUTHORIZED COLLECTOR _____

MEMBER'S COPY _____

CITY _____

POSTED BY _____

EXP. DATE _____

**CONSTITUTION
OF THE
INTERNATIONAL ORGANIZATION
OF
MASTERS, MATES AND PILOTS**

OCTOBER 14, 1977

INTERNATIONAL OFFICERS

International President

Captain Robert J. Lowen

International Executive Vice President

Captain Allen C. Scott

International Secretary-Treasurer

Captain Lloyd M. Martin

MARITIME REGION OFFICERS

Vice President - Atlantic & Gulf

Captain John F. Beirne

Vice President - Pacific

Captain David A. Boyle

PILOTS

Vice President

Captain Donald S. Grant

OFFSHORE MEMBERSHIP GROUP OFFICERS

Vice President - Atlantic

Captain Henri L. Nereaux

Vice President - Gulf

Captain R. M. Casselberry

Vice President - Pacific

Captain Orion A. Larson

Note: The above Officers constitute the Board Members of the General Executive Board.



Affiliated ATL-CIO

81040053809

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PREAMBLE

We, the members of the International Organization of Masters, Mates and Pilots, for the better regulation of matters pertaining to our Industry, for the protection of the lives and property entrusted to our care, for the improvement of our economic status, and for the elevation of our standing in the community and our character as men and women do hereby prepare and adopt this Constitution for the International Organization of Masters, Mates and Pilots.

Article I ORGANIZATION

Section 1. Name and Principal Office

This body shall be known by the name of International Organization of Masters, Mates and Pilots, and its headquarters and principal office shall be wherever the General Executive Board may designate.

It shall hereafter be referred to in this Constitution as the "Organization."

Section 2. Structure and Composition

The Organization shall have no Locals, Divisions, or Subordinate Bodies, but may add affiliates and shall governmentally consist of a single entity. Because of their varying skills and different types of employment, the membership shall be allocated or classified in Groups, each of which shall be unlimited in its geographic coverage and shall exist to provide the vehicle by and through which the Organization meets the particularized needs of the various categories of the membership of the Organization, while at the same time maintaining a unity of the membership into a single Organization with common aims, goals, finances and government.

The authority and power of this Organization is vested in the members thereof acting directly in membership meetings and referenda and by and through their duly elected delegates meeting in Convention assembled.

Between Conventions the powers of the Organization shall be vested in the General Executive Board, whose actions shall be subject to approval or rejection by the next regular Convention. Between meetings of the General Executive Board the powers of the Organization shall be exercised through the International Subcommittee with full authority to act on behalf of the Organization, subject to the action of the next meeting of the General Executive Board or Convention, and through the Officers of the Organization as hereafter provided.

Section 3. Objectives and Purpose

It shall be the object of the Organization to protect, maintain and advance the interests of the professional maritime workers and such other persons within its jurisdiction, and

to organize the unorganized and to unite all such persons in the Organization without regard to age, sex, race, nationality and creed. It shall also be the purpose of the Organization to improve the wages, hours, conditions of employment and retirement benefits of its members and to engage in legislative, political, educational and other activities which will further the interests of the members of the Organization and of professional marine Officers and allied personnel elsewhere in the world with similar duties and responsibilities.

Article II JURISDICTION

Section 1. General

The Organization shall exercise and maintain jurisdiction over all persons engaged in the navigation, pilotage, and movement of merchant and other vessels and the handling of waterborne cargo and other related industries. Such persons include individuals utilizing or supervising the use of all vessel equipment; and other persons declared eligible for membership by General Executive Board or Convention action.

Jurisdiction of the Organization shall include positions created or established as replacements for traditional positions as a result of technological change and scientific advancement.

This technological advancement may include changes in the method of vessel operations as well as changes in equipment.

Section 2. Jurisdiction Hereafter Granted

If the national or international labor organization(s) with which this Organization is affiliated grants additional responsibility or jurisdiction to the Organization then such additional areas shall be incorporated into this Constitution upon approval of the General Executive Board or by Convention action.

Article III MEMBERSHIP

Section 1. Eligibility and Application Procedure

a) All persons, as described in Article II, Section 1, shall be eligible for membership in this Organization.

b) Members of the Subordinate Bodies existing on the effective date of this Constitution shall initially and automatically be members of the corresponding Membership Group or classification provided by this Constitution. The membership of Local 27 and Local 30, by majority membership vote of each such Local held in accordance with its By-Laws shall determine before the effective date of this Constitution, to which Membership Group they shall be assigned and shall promptly notify the International Secre-

tary-Treasurer of the results of such votes; the choice of Membership Group shall be limited to those Groups for which the membership of each such Local is qualified.

c) No person otherwise eligible shall be denied application because of age, sex, nationality, color or religious beliefs. However, no Applicants shall be admitted to membership, nor shall any member retain membership, who is affiliated directly or indirectly with any subversive group or association which advocates the violent overthrow of the legally constituted government of the countries in which the Organization has offices.

d) Admission of Applicants to a Membership Group provided by this Constitution shall be in accordance with any quota based on the ratio of active members in a Membership Group to each position or contract job applicable to such Group. Initially the ratios heretofore established by the former Subordinate Bodies and in effect at the time of adoption of this Constitution shall be continued as applicable ratios for the corresponding Membership Groups of this Constitution. Such ratios shall be reviewed annually by the General Executive Board which shall be authorized to adjust any such ratio to meet changing employment opportunities.

e) A person desiring membership in the Organization shall make application on the form supplied by the Organization. The application form shall be submitted to a Membership Committee designated by the General Executive Board. After the Applicant has made such payments as may be required by this Constitution, the Membership Committee shall present such documents and information at the next meeting of the General Executive Board for action on the Membership Committee's recommendation.

f) Applications for membership shall be reviewed by the General Executive Board and if accepted, the Applicant shall be assigned to the applicable Membership Group pursuant to the standards for each such Group hereafter specified.

g) When the number of Applicants for membership in a particular Membership Group is greater than the number of persons to be admitted to membership, the General Executive Board shall select the Applicants to be admitted without regard to race, creed, color, sex, age, religion or national origin and shall base its recommendations and decisions solely on its evaluation of the relative qualifications of the Applicants and the specialized needs of the Organization existing at the time.

h) The Membership Group of the Organization and the general criteria for classification into each is as follows:

(1) *Offshore Membership:* This Group shall include any member who:

(i) possesses an appropriate and valid U.S. Coast Guard Merchant Marine Officer license or certificate for ocean-going vessels, or for specific vessels covered under Contracts where the employer contributes to one or more

of the Offshore Trusts, or other evidence of professional capability acceptable to the General Executive Board,

(ii) is engaged in or available for and actively seeking employment under such license as an Officer, or in employment where the employer contributes to one or more of the Offshore Trusts.

(2) *Pilot Membership:* This Group shall include all members who are licensed under the authority of a state or political subdivision thereof, or under the Great Lakes Pilotage Act, or by a corporation or similar entity of the United States Government. In addition, and subject to Pilot Membership Group referendum, members of any formal association of Licensed Pilots may be accepted for membership on such terms as the General Executive Board shall prescribe.

(3) *Government Employees Membership:* This Group shall include all members of the Organization employed by Federal, State, Municipal or other governmental units or authorities who are not represented in collective bargaining by any other Membership Group or affiliate of the Organization and any other members of the International Organization of Masters, Mates and Pilots who will further the interest of the Organization by means of their inclusion in membership as may be determined by the General Executive Board.

(4) *Shoreside Membership:* This Group shall include any member employed in a professional or supervisory capacity associated with or related to work performed by other members of the Organization and who is declared eligible for membership by the General Executive Board.

(5) *Atlantic and Gulf Maritime Region Membership:* This Group covers persons with wide variations of skills and duties of the types included in the Collective Bargaining Agreements or representation of the former Atlantic and Gulf Region—Inland Division Subordinate Body and shall include:

(i) All licensed members who, pursuant to such license, are engaged in the operation of vessels which are operating from ports (lakes, rivers, bay, gulf or oceans) in the area extending from the Canadian border to the Mexican border and to the Atlantic, including Puerto Rico, the Panama Canal Zone, the Caribbean, and any possession or protectorates in the Atlantic, as well as any other person who may qualify to become such Licensed Officer; or who is employed or may qualify to become such Licensed Officer; or who is employed or may qualify to become employed in any other capacity in connection with the operation of any such vessel where such employment is covered under Contracts (where the employer contributes or is eligible to contribute to one or more of the Trusts established by the former Atlantic and Gulf Region—Inland Division Subordinate Body.)

(ii) Any other person employed in any capacity similar to one covered by the Collective Bargaining Agreements or representation of the former Atlantic and Gulf

Region--Inland Division Subordinate Body (where the employer contributes or is eligible to contribute to one or more of the aforesaid Atlantic and Gulf Trusts.)

(iii) Any other person declared eligible by the General Executive Board.

(6) *Pacific Maritime Region Membership:* This Group covers persons with wide variations of skills and duties of the types included in the Collective Bargaining Agreements or by representation of the former West Coast--Pacific Region, Inland Division Subordinate Body, and shall include:

(i) All licensed members who, pursuant to such licenses, are engaged in the operation of vessels which are based or operating from ports (lakes, rivers, bay, gulf or oceans) in the area extending from the Mexican border to the Canadian border and the Pacific, including Alaska, Hawaii and U.S. possessions and protectorates in the Pacific; as well as any other persons who may qualify to become such Licensed Officers, or who may qualify to become employed in any other capacity in connection with the operation of any such vessel where such employment is covered under Contracts where the employer contributes or is eligible to contribute to one or more of the Trusts, based on the West Coast (excluding the Offshore Division MMP-PMA Trust), in which the former Subordinate Body, West Coast--Pacific Region, Inland Division participated.

(ii) Any other person employed in any capacity similar to one covered by Collective Bargaining Agreements or by representation of the former West Coast-Pacific Region of the Inland Division Subordinate Body, where the employer contributes or is eligible to contribute to one or more of the aforesaid Trusts (excluding the Offshore Division MMP-PMA Trusts).

(iii) Any other person declared eligible by the General Executive Board.

Section 2. Duties and Responsibilities of Members to the Organization

a) Every member by virtue of his membership in the Organization is obligated to adhere to and follow the terms of the International Constitution and any applicable By-Laws, Work Rules or any directives promulgated thereunder, and shall enjoy the rights, duties, privileges and immunities conferred by them and by statute. Each member shall faithfully carry out such duties and obligations and shall not interfere with the rights of fellow members.

b) Every member by virtue of his membership in the Organization authorizes it to act as his exclusive bargaining representative with full and exclusive power to execute Agreements with his employer governing terms and conditions of employment and to act for him and have final authority in presenting, processing and adjusting any grievance, difficulty or dispute arising under any Collective Bargaining Agreement or out of his employment with such

employer, in such manner as the Organization or its Officers deem to be in the best interests of the Organization and the membership as a whole.

c) No member shall interfere with the elected Officers or Representatives or Agents of this Organization in the performance of their duties and each member shall, when requested, render such assistance and support in the performance of such duties as may be required by them, provided that this does not interfere with individual rights as members. Each member shall adhere to the terms and conditions of pertinent Collective Bargaining Agreements and shall refrain from any conduct that would interfere with the performance by the Organization of its legal or contractual obligations.

d) Membership in the Organization shall not vest any member thereof with any right, title or interest in or to the funds, property or other assets belonging to the Organization now or hereinafter and no member shall have a property right to membership in the Organization.

e) It shall be the duty of each member to be true and loyal to the Organization and to treat other members with due respect and consideration.

f) It shall be the obligation of each member to uphold and advocate the objectives of bona fide labor organizations and to patronize union-made goods. He shall keep himself in good standing and attend all meetings of the Organization whenever possible.

Section 3. Failure to Stand Picket Duty

All members shall be required to do picket duty, subject to reasonable rules uniformly enforced.

A member who fails to perform such picket duty shall be subject to a fine or removal from any or all employment lists and/or removal from membership.

The amount of such fine or the period of such removals shall be determined by the Trial Committee.

Pending trial, the applicable Strike Committee shall have the authority to remove such a member from the various Shipping Lists and/or to levy a fine not to exceed five hundred (\$500.00) dollars.

Section 4. Rights of Members

a) In all Organization referenda the ballot of any member shall be counted if the member is not suspended for non-payment of dues when the ballots are mailed or when the ballots are counted.

b) Every member of the Organization shall have the right to meet and assemble freely with other members; to express any view, arguments or opinions. He shall have the right to express at meetings his views upon candidates in any election or upon any business properly before the meeting, subject

to reasonable rules established by the Organization pertaining to the conduct of the meeting.

It shall be the further right of every member to attend membership meetings, which shall be held from time to time in individual Ports or Areas for considering and deciding upon membership affairs; the detailed procedures and timing for which shall be established as part of each Membership Group's Working or Shipping Rules in accordance with the membership voting procedures set forth in this Constitution in Article VII, Section 3(r). The meeting requirements and procedures, as well as all Shipping Rules, in effect at the time of the adoption of this Constitution shall remain in effect until changed by membership vote of any Membership Group as provided by this Constitution.

(c) Nothing in this Section shall be construed to impair the right of the Organization to adopt and enforce reasonable rules as to the responsibility of every member toward the Organization as an institution and to his refraining from conduct that would interfere with its performance of its legal or contractual obligations.

(d) Every member shall have the right to institute an action in any court, or in a proceeding before any administrative agency, irrespective of whether or not the Organization or its Officers are named as defendants or respondents in such action or proceeding.

Further, every member shall have the unlimited right to appear as a witness in any judicial, administrative, or legislative proceeding, or to petition any legislature or to communicate with any legislator.

However, every member shall be required to exhaust reasonable hearing procedures (but not to exceed a four-month lapse of time) within the Organization before instituting legal or administrative proceedings against the Organization or any Officer thereof.

A member is prohibited from permitting an employer or employer association to directly or indirectly finance, encourage, or participate in, except as a Party, any action, proceeding, appearance or petition referred to above.

(e) No member of the Organization may be fined, suspended, expelled, or otherwise disciplined (except for non-payment of dues) by the Organization, or by any Officer thereof, unless such member has been (i) served with written specific charges; (ii) given a reasonable time to prepare his defense; (iii) afforded a full and fair hearing.

(f) Every member of the Organization shall have the right to a copy of the Collective Bargaining Agreement under which he is employed.

(g) The Organization shall inform its members of the provisions of the Labor-Management Reporting and Disclosure Act of 1959.

(h) Every member shall have the right to:

(1) Circulate petitions on union policy;

(2) Publish and distribute leaflets, newspapers and all other written material or present his opinions through other media.

(3) Be nominated for and hold any office unless prohibited by the Labor-Management Reporting and Disclosure Act of 1959 or by reasonable qualifications uniformly imposed by the International Constitution. No elected Officer shall be removed from Office except after reasonable notice and a fair hearing on charges or when recalled in accordance with Article V, Section 12(a).

(4) Vote on the ratification of any Collective Bargaining Agreements under which he works, subject to reasonable rules.

(5) Initiate a petition for referendum on any matter subject to reasonable rules to be established in a member's Work Rules. The procedure provided herein cannot be used to amend the Constitution, the exclusive method therefor being set forth in Article X of this Constitution.

(6)(i) The same fair and reasonable access to the official publication of the Organization for presentation of a point of view that such member has at the date this Constitution is adopted subject to reasonable rules governing such publication so long as it continues; and

(ii) the same right as outlined above in any publication established after the date this Constitution is adopted.

(iii) To protect a member's right to privacy, any information relating to a member furnished by him to the Organization or any affiliated body thereof or obtained by the Organization or any affiliated body thereof shall be held in confidence and except through compulsion by law, shall not be disclosed without the member's permission to any person or entity outside the Organization or any affiliated body thereof or trusts created by it or them.

Section 5. Membership Standing

(a) To be in good standing, a member must have paid dues for the current quarter and assessments and other indebtedness due to the Organization. A member must within 72 hours after returning to a United States Port, Saturdays, Sundays and holidays excepted, pay all indebtedness to the Organization incurred during the time he was on the foreign voyage when he was unable to put himself in good standing.

(b) Except as permitted by (a) above, or where a valid dues check-off is in effect, or as hereafter provided a member who is not paid up in assessments, dues and other indebtedness for the current quarter before the first working day of such quarter is in arrears, shall lose good standing and, until all financial obligations to the Organization are met, shall not be entitled to any benefits of the Organization.

(c) A member in arrears in dues and assessments or other indebtedness for six (6) months shall stand suspended.

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d) Whenever a member of the Organization is in distress because of a lengthy illness or incapacitation, he may apply in writing to the Organization for a waiver of dues. If the application for such waiver of dues is approved, it shall be reviewed when the Organization Group deems necessary but not less than once each 12 months in order to determine if the member is still in distress.

e) Members who are inducted involuntarily into the Armed Forces shall have their dues waived for the period of their involuntary service only. Within 120 days of his discharge, such member shall satisfy his obligation to the Organization and be available for employment.

f) No member of the Organization may be a member of another maritime trade union or work under a Collective Bargaining Agreement of another maritime trade union without the express written permission of the International Subcommittee. If written permission is granted under this subsection, it shall only be valid for a period of six (6) months at which time the member must reapply. If a member violates this provision, he shall be immediately suspended and shall not be entitled to any of the benefits and privileges of the Organization or its Collective Bargaining Agreements.

g) Members who are not actively engaged in, or available for and seeking, employment applicable to their membership class may, upon application to the General Executive Board, be classified as inactive members where inactivity has continued for at least 90 days, and shall be removed from and ineligible for inclusion on any shipping employment list. Inactive status shall commence at the beginning of the quarter next following application therefor and acceptance by the General Executive Board and shall continue to the end of the quarter in which the General Executive Board shall grant an application for return from inactive status.

h) Dues for inactive members shall be half of the annual dues applicable to their membership class, except where a former Subordinate Body had a lower rate in effect at the time of ratification of this Constitution, such lower rate shall apply. Inactive members who pay inactive dues shall have such time excluded in the computation of time of continuous good standing for eligibility to Office.

i) Inactive members shall have all rights of membership except (1) to vote; or (2) to be eligible for nomination or appointment to paid Office until 12 months after return from inactive status.

Section 6. Termination of Membership

a) A member wishing to terminate his membership from the Organization must make application on a form prescribed by the Organization. Such member shall be in good standing at time of application. When such application is accepted by the International Secretary-Treasurer, such member shall have completely severed his relationship with

the Organization and may apply for admittance thereafter only as a new Applicant and in accordance with this Constitution.

b) A member who is suspended must, to regain admittance to the Organization, apply as a new Applicant in accordance with this Constitution.

Section 7. Honorary Members

The Organization may grant honorary membership subject to regulations and privileges to be established by the General Executive Board. In no event, however, shall an honorary member be eligible to vote, hold Office or formally represent the Organization.

Section 8. Applicants for Membership

a) No Applicant who is a suspended or expelled member of the Organization or any of its former Locals or Subordinate Bodies shall be admitted to membership except upon such special dispensation conditions as the General Executive Board shall grant.

b) Prior to his acceptance as a member by the membership of the Organization an Applicant shall have no rights within the Organization except the following:

(1) Employment in accordance with the applicable Bargaining Agreements and this Constitution.

(2) To attend membership meetings where he shall have voice but no vote.

c) If the Applicant becomes delinquent in any monies payable to the Organization prior to his acceptance into membership, his application shall be denied forthwith and no monies paid shall be returned.

d) At any time prior to his acceptance into membership, the Organization shall have the right to deny his application.

e) Before being admitted into membership, the Applicant must tender his full initiation fee and required dues and assessments, and have his record examined by a Membership Committee, drawn from the ranks of the appropriate Membership Group, which shall recommend acceptance, rejection, or postponement of the application as the findings indicate. If rejected, the initiation fee, but not the dues or assessments, shall be refunded.

Section 9. Transfers of Members

Subject to any applicable quota restrictions and with the approval of the affected Membership Group Vice-Presidents, a member of one Membership Group who is in good standing and who meets the qualifications for membership in another Membership Group of the Organization upon payment of any transfer fee established by the General Executive Board and any applicable initiation fee differen-

tial, may transfer membership to that Group. With respect to the transfer of a member with two (2) or more years of continuous good standing from one Membership Group to another, preference over new Applicants shall be given to such transferring member with regard to any restrictions or quotas established by the General Executive Board. A new Applicant is one whose latest application for membership is filed on or after March 31, 1977. Notwithstanding any of these provisions, except those relating to good standing and payment of financial obligations, any member may return to a Membership Group from which he has previously transferred and shall be entitled to the same status held at the time of transferring out.

- c. If the initiation fee of the new Membership Group is higher than that of the Membership Group from which he is transferring, the difference in such fees shall be paid by the member.

Section 10. *Withdrawal and Reinstatement*

- Notwithstanding any of the provisions of Article III, Section 6, subsection a) and b) the General Executive Board may establish procedures to permit the withdrawal and/or reinstatement of members.

Article IV CONVENTIONS

Section 1. *Authority and Power of Conventions*

- The authority and power of this Organization is vested in the members thereof acting by and through their duly selected delegates meeting in Convention assembled.

Such Convention is the source of all true and legitimate authority over the Organization and possesses as such supreme and absolute power over same and all channels leading thereto. It shall, while in session, have the sole and exclusive power to grant charters to affiliate bodies; to suspend or revoke for cause any charter so granted; to hear and determine all appeals and to enact laws and establish regulations to settle grievances from the Membership Groups or members thereof in order to carry out in the most effective manner the objectives and purposes of this Organization. The Convention does not have the power to alter or amend the Constitution except as provided in Article X hereof.

The Convention may be regular, special or constitutional and is to be so denominated in the Convention Call.

Section 2. *Place, Date and Notice*

A regular Convention is to be held at a place and date to be decided upon by the Convention in session. For the first three (3) years after ratification of this Constitution, the Convention shall be held annually. Thereafter it shall

be held biennially. Special and Constitutional Conventions shall be called and held as provided in Sections 7 and 8 of this Article. Two-thirds of the registered delegates, including the elected Officers of the Organization, shall constitute a quorum. The International Secretary-Treasurer shall, not less than four (4) months prior to the date of the Convention, send out to all known delegates and to all offices of the Organization the Convention Call notifying them of time and place of Convention. However, in case of emergency, by a majority vote of the General Executive Board, the site and/or date of the Convention may be changed to a place and time more appropriate for all concerned.

Section 3. *Representation*

- a) Each Membership Group shall be eligible to have representation in the Convention.

b) Subject to the provisions of subsection 4(a) of this Article, each Membership Group shall be entitled to membership representation based on the average membership in good standing for the four (4) quarters immediately preceding the Convention, but in no event shall this membership representation exceed the true mean membership of the Membership Group for the immediate preceding four (4) quarters.

- c) Each Membership Group shall be entitled to a maximum number of delegates in accordance with the following table. This maximum number includes those delegates elected by virtue of their election to Office:

Members	Delegates
up to 100	1
101 to 300	2
301 to 500	3
501 to 1000	5
1001 to 3000	7
3001 and over	25

- d) Each delegate shall vote an equal percentage of the Membership Group he represents provided that all fractional votes be eliminated.

Section 4. *Election and Credentials of Delegates*

- a) The International President, the International Executive Vice President, the International Secretary-Treasurer and the Vice Presidents shall be delegates to all Conventions, together with the most recently elected Convention delegates from each Membership Group.

The International President, the International Executive Vice President, the International Secretary-Treasurer and the Vice Presidents then in Office by virtue of their election to such Offices shall be delegates with full voice and vote.

pro rata votes of the International President, the International Executive Vice-President and the International Secretary-Treasurer shall be calculated as follows:

(i) The entire voting strength of the Convention shall be calculated as described in Section 3 b) and 3 c) above.

(ii) The total number of registered delegates shall be determined in accordance with Section 3 d) above, which shall be increased by three (3).

(iii) The voting strength, (from (i) above), divided by the registered number of delegates (from (ii) above), shall determine the pro rata vote that the International President, the International Executive Vice President and the International Secretary-Treasurer shall each cast at the Convention.

(iv) The combined voting strength of the three (3) determined above shall reduce, on a percentage pro rata basis, the total voting strength for each Membership Group.

Only those persons shall be recognized as a delegate or alternate delegate who are members in good standing. Further, the delegate and alternate delegate must be chosen by a Membership Group in a referendum ballot in an election in which all members in good standing were eligible to participate unless otherwise provided as provided for by this Constitution.

The International Secretary-Treasurer shall issue the number of credentials for the delegates of each Membership Group which shall be properly attested to by the Membership Group Vice President. A duplicate credential shall be returned to the Organization at least two (2) weeks prior to the Convention.

When a delegate presents credentials and is seated in place of the alternate, he shall be the recognized representative for the remaining sessions of the Convention.

If the International Secretary-Treasurer of the Organization had reason to challenge the credentials of any delegate on the ground that the delegate was not elected in accordance with this Constitution, the complaint is to be made to the Credentials Committee which shall investigate and report to the Convention. The Convention shall determine whether to seat the delegate. Failure to challenge the delegate's credentials constitutes a waiver of all objections.

The International Secretary-Treasurer shall pay reasonable expenses to the meetings of any Convention. The International Secretary-Treasurer shall also pay the expenses of the International Officers and the Membership Group delegates.

The International Secretary-Treasurer shall also pay the reasonable expenses referred to in Section 3. The International Secretary-Treasurer shall also pay an allowance to all elected "rank-and-file" delegates from individual Membership Groups. This per diem allowance shall be the daily wage of an Assistant Porter. The per diem allowance paid shall not be less than the per diem allowance paid by a former Subordinate Body.

Section 5. Committees

a) The International Subcommittee shall, at least five (5) days prior to each Convention, appoint from the delegates-elect, a Committee of not less than three (3) delegates to act as a Committee on Credentials. This Committee shall have its report in writing ready for the Convention when it opens.

b) The International Subcommittee shall, at least five (5) days prior to each Regular or Special Convention, appoint the following Committees, to serve for that session only, to wit:

- 1) Rules
- 2) Constitution
- 3) Resolutions and Petitions
- 4) Laws and Legislation
- 5) Grievances and Appeals
- 6) Finance
- 7) General Executive Board Actions

It shall be the duty of the Committee on Finance to report to each Regular and Special Convention on the International Secretary-Treasurer's report, making recommendations should they deem it necessary.

Section 6. General Conduct of Convention

a) The order of business at a Regular or Special Convention shall be as follows:

- 1) Call to Order
- 2) Report on Credentials*
- 3) Report on Rules
- 4) Reports of International Officers
- 5) Report on General Executive Board Action
- 6) Report of Committees
- 7) Unfinished Business
- 8) New Business
- 9) Nomination of Officers
- 10) Adjournment

*The Chairman of the Credentials Committee shall consult with the Chairman of the Finance Committee before making his report.

Except as otherwise provided by this Constitution or rules adopted by the Convention, all meetings shall be governed by Roberts Rules of Order.

b) All proposed resolutions shall be forwarded to the International Secretary-Treasurer at least 30 days prior to the opening day of the Convention.

c) The order of business may be changed or suspended and new resolutions may be considered by a Convention only by a two-thirds majority pro rata vote.

d) Members in good standing shall be authorized observers at any session of a Convention. Such members may also attend Committee meetings.

Non-members specifically invited by the International President and/or by the majority pro rata vote of the Convention shall be authorized observers at any plenary session of the Convention. Such non-members may attend Committee meetings only with the approval of the Committee by majority vote.

Any observers who interfere with the business of the Convention or any Committee, or who violate rules established by the Rules Committee and approved by the Convention delegates shall be denied further attendance.

Section 7. Special Conventions

A Special Convention may be called by a two-thirds majority vote of the General Executive Board. Special Conventions may also be called for by a petition to the International President, signed by a majority of the Board members. The time and place is to be set by the party or parties calling such Special Convention. At least 30 days written notice shall be given to the known delegates and to all Offices of the Organization prior to the date of convening a Special Convention.

Section 8. Constitutional Conventions

a) A Constitutional Convention may be called by a two-thirds majority vote of the General Executive Board or by a two-thirds majority pro rata vote of a Regular Convention.

b) The time, place and written notice shall be designated by the person or body calling the Constitutional Convention.

c) Such Convention shall be limited to Constitutional matters.

d) The International Subcommittee shall, at least five (5) days prior to the Constitutional Convention, appoint a Rules Committee and a Steering and Drafting Committee unless such shall have been appointed or elected by the Convention or the General Executive Board at the time of calling the Convention.

e) The normal order of business for Conventions shall be suspended at Constitutional Conventions following the "Report on Rules" and the remainder of the Convention till adjournment shall be devoted to the report of the Steering and Drafting Committee, matters appertaining thereto and consideration and action thereon.

Section 9. Records and Publication of Actions

The credentials of delegates, resolutions introduced and other records of each Convention shall be preserved until the next Regular Convention. Minutes of each Convention, and other documents or records required by law, shall be permanently maintained by the International Secretary-Treasurer.

Within 90 days of the conclusion of a Convention, the affirmative actions shall be prepared and distributed to all members, noting the action taken by the Convention.

Section 10. Verbatim Records

A verbatim record shall be kept at all Conventions and copies shall be forwarded to all delegates and all Ports in which the Organization maintains an Office, as soon as possible after the close of a Convention.

Section 11. Proxy Votes

There shall be no proxy votes at any Convention.

Article V INTERNATIONAL OFFICERS, GENERAL EXECUTIVE BOARD AND REPRESENTATIVES ELECTION PROCEDURES

Section 1. Notice of Elections

Not less than 15 days prior to any election, the International Secretary-Treasurer shall give appropriate notice to the membership of the forthcoming election.

Section 2. International Officers and Membership of General Executive Board

The Officers of this Organization shall consist of an International President, an International Executive Vice President, an International Secretary-Treasurer and Vice Presidents as follows:

- (1) Vice President—Atlantic Ports
- (2) Vice President—Gulf Ports
- (3) Vice President—Pacific Ports
- (4) Vice President—Pilots
- (5) Vice President—Atlantic and Gulf Maritime Region
- (6) Vice President—Pacific Maritime Region

These Officers and additional Vice Presidents, if any, as hereafter provided, shall collectively constitute the General Executive Board of the Organization.

Additional Vice Presidents may be elected for any Membership Group provided in Article III, Section 1 (h) which is not currently and specifically represented on the General Executive Board at the general election following the date when membership of such Group reaches at least 500 members, or for any affiliated body in accordance with the Affiliation Agreement.

Section 3. Election of Officers and Terms of Office

a) The International President, the International Executive Vice President, and the International Secretary-Treasurer shall be elected by a plurality vote of the general membership of the Organization, provided the winning candidate receives at least forty percent (40%) of the valid ballots counted. All other elections provided for in this Constitution shall be by plurality vote.

If a run-off election is necessary it shall be between the two candidates receiving the highest vote. If one of the two candidates in a run-off election declines to run, the other candidate shall be deemed elected for said International Office. The International Ballot Committee, the Impartial Balloting Agency, and the balloting procedures shall be the same as in the original election. The original list of eligible voters, with deletion of members who are no longer in good standing shall be used for the mailing of ballots. No other proposition may be placed on the ballot and the balloting shall commence forthwith but in no event later than thirty (30) days following the certification of the results of the election.

(i) The Vice President—Atlantic Ports, Vice President—Gulf Ports and Vice President—Pacific Ports shall be elected by the members of the Organization classified as "Offshore Membership".

(ii) The Vice President—Pilots shall be elected by the members of the Organization classified as "Pilot Membership".

(iii) The Vice President—Atlantic and Gulf Maritime Region (formerly Regional Director) shall be elected by the membership of the Atlantic and Gulf Maritime Region.

(iv) The Vice President—Pacific Maritime Region (formerly Regional Director) shall be elected by the membership of the Pacific Maritime Region.

(v) Voting shall be by secret ballot and conducted by an impartial Balloting Agency selected by a majority pro rata vote of the International Convention, except that for the 1977 elections for the Officers in (d) and (e) above, the election procedures previously used by these Groups shall govern.

(vi) Unless legally removed, and conditioned upon their being and remaining in good standing in the Organization, all elected International Officers shall hold their respective Offices for a term of three (3) years, or until their successors are duly elected and installed.

Section 4. Eligibility for Nomination and Election as an International Officer

Any member meeting the requirements of this Section shall be eligible for nomination to and election as an International Officer of the Organization as listed in Article V, Section 2.

a) To insure that the leadership of the Organization continues to be drawn from the ranks of its supervisory and professional membership with broad and current experience in the maritime industry, the following qualifications shall be necessary for nomination and election. The member shall:

(1) Have been a member of the Organization for a period of at least four (4) years and is and has been continuously in good standing for the 24 months preceding nomination.

(2) Additionally, the International President, International Executive Vice President, and International Secretary-Treasurer must meet the requirements as hereafter listed for election as Vice President for one of the Membership Groups of the Organization.

b) The Vice President—Atlantic Ports, Vice President—Gulf Ports and Vice President—Pacific Ports, in addition to the requirements of Section 4(a)(1) above, must:

(i) have had his membership classified as Offshore Membership for the 24 months preceding nomination.

(ii) For all elections subsequent to January 1, 1980, within such 24 month period of (b)(1) immediately above,

(i) have served 180 days under the authority of his license aboard vessels for which the Organization is the recognized bargaining agent; or

(ii) have served the Organization during such 24 month period for 180 days of actual service as an Officer or as a paid or unpaid Official, Representative, Delegate or Committeeman; or

(iii) any combination of the above.

c) The Vice President—Pilots, in addition to the requirements of Section 4(a)(1) and (2) above must:

(i) have had his membership classified as Pilot Membership for the 24 months preceding nomination.

(ii) for all elections subsequent to January 1, 1980, within the 24 month period of (c)(1) immediately above,

(i) have served 180 days in the capacity of a "Pilot" as described in the Pilot Membership Group of Article III, Section 4(h)(2) of this Constitution; or

(ii) have served the Organization during such 24 month period for 180 days of actual service as an Officer or as a paid or unpaid Official, Representative, Delegate or Committeeman; or

(iii) any combination of the above.

d) The Vice President—Atlantic and Gulf Maritime Region and the Vice President—Pacific Maritime Region, in addition to the requirements of Section 4(a)(1) and (2) above, must possess a valid license as an Officer of vessels of the United States and

(1) have been a member of his respective Membership Group for the 24 months preceding nomination

(2) for all elections subsequent to January 1, 1980, within such 24 month period of (d), (1) immediately above

(i) have served 180 days under the authority of his license aboard vessels for which the Organization is the recognized bargaining agent; or

(ii) have served the Organization during such 24 month period for 180 days of actual service as an Officer or as a paid or unpaid Official, Representative, Delegate or Committeeman; or

(iii) any combination of the above.

e) At the time of initial election of any Vice President for the Membership Groups not specifically represented on the General Executive Board as of the date of adoption of this Constitution, any member whose membership is in such Group shall be eligible for nomination to and election as such Vice President, provided that at the time of nomination he has been a member of the Organization for a period of two (2) or more years with membership in the applicable Membership Group for one (1) year immediately preceding nomination and is and has been in continuous good standing for the 12 months preceding nomination. For all elections subsequent to the initial election the periods of membership and good standing for eligibility and election shall conform to the requirements of Section 4(a)(1) and (2) above and there shall be such additional requirements as the General Executive Board shall provide.

f) The continuous good standing requirements of paragraphs 4 (a) through (e) inclusive above, shall not be applicable to nominations and elections before January 1, 1980.

g) No candidate for an elective, paid position for a Membership Group shall accept nomination to or be a candidate for Vice President of such Membership Group or for International President, International Executive Vice President or International Secretary-Treasurer. No member can accept nomination to or be a candidate for more than one Office described in Article V, Section 2.

Section 5. Nominations for International Officers

Nominations for the Offices of International President, International Executive Vice President, International Secretary-Treasurer and all Vice Presidents shall be made at the Regular Convention preceding the election, subject to the provisions of Section 3(1) of this article.

When a nomination is made in Convention for these Offices, the mover of the nomination must at such time present

a statement setting forth the nominee's name, last known address, qualifications, background and general experience. The same information required of a member nominated in Convention shall be furnished along with any nomination by petition.

Nominations may also be made by petition signed by not less than 50 members of the Organization, provided that with respect to nominations for Vice President, the petition must be signed by five (5) members of the applicable Membership Group. Verification of the good standing of the petitioners shall be made under the supervision of the International Secretary-Treasurer. All such nominations by petition must be received by the International Secretary-Treasurer prior to the time the Chairman declares nominations closed for International Officers.

No later than 10 days after the close of nominations, each candidate shall have the right to submit a statement of fact not to exceed 200 words which shall include such information as:

a) Date of joining Organization;

b) Subordinate Bodies he has belonged to and Membership Group, if any;

c) License, date and issue number, if any.

This statement by a candidate shall appear on the ballot. If a statement is not furnished as required in this Section, no statement shall appear with the candidate's name on the ballot.

Notification to Nominees

The nominees for the Office of International President, International Executive Vice President, International Secretary-Treasurer and Vice Presidents shall be notified by the International Secretary-Treasurer by telegram or cable of their nomination.* Such telegram or cable shall advise the candidates of the following:

a) the ten-day acceptance rule.

b) that his written acceptance must state that he is not disqualified as a candidate by the Labor-Management Reporting and Disclosure Act of 1959.

c) of his right to submit a statement of fact for inclusion on the ballot, not to exceed 200 words which shall include such information as required in a), b), and c) of this Section 5.

Acceptance of Nomination

Only those candidates who shall have notified the International Secretary-Treasurer, in writing, within 10 days after the close of the nominating period that they will accept the nomination shall have their names placed on the International Ballot.

*For the purpose of this Section, telegrams or cables shall be considered communications in writing.

Every candidate for any Office in the Organization shall certify in writing that he is not prevented from holding Office by any provision of the Labor-Management Reporting and Disclosure Act of 1959 or by any provision of the International Constitution. Such certification shall accompany every candidate's acceptance of his nomination for Office.

Section 6. Representatives

To enable the Organization to be responsive to and meet its changing needs and that of its active and retired membership it shall open, close and operate Offices or other facilities at various Ports, Regions or otherwise to meet specialized membership needs. Such Offices or other facilities shall be staffed by representatives who may be called Port Agents, Assistant Port Agents, Pilot Regional Representatives, Branch Agents, and such other titles as set forth in the Work Rules of the Membership Groups, or such other title as may be established by the General Executive Board, together with such clerical and other assistants as may be authorized from time to time. The Offices and facilities of Ports shall be operated on the basis of requirements of service to the active and retired membership. The Ports listed in subparagraph (a)(1) below shall remain open for service to that membership for a minimum period of three (3) years following the adoption of this Constitution. Effective January 1, 1978, the Vice President—Atlantic Ports, Vice President—Gulf Ports and Vice President—Pacific Ports, by virtue of their election to such Office, during their incumbency and in addition to their other duties and responsibilities as provided by this Constitution, shall serve without additional compensation as the Port Agents for New York, New Orleans and San Francisco, respectively. In addition, and to assist the International Officers in carrying out their functions, other Port Agents, Assistant Port Agents and Pilot Regional Representatives and other Representatives shall be nominated and elected as set forth herein:

a) Port Representatives

(1) Effective January 1, 1978, the following Ports shall have the Port Agents and Assistant Port Agents as shown for each:

New England	1 Assistant Port Agent
New York	1 Vice President/Port Agent 4 Assistant Port Agents
Philadelphia	1 Assistant Port Agent
Baltimore	1 Port Agent
Norfolk	1 Port Agent 1 Assistant Port Agent
Charleston, S.C.	1 Assistant Port Agent
Savannah	1 Port Agent
Mobile	1 Port Agent
New Orleans	1 Vice President/Port Agent 2 Assistant Port Agents
Houston	1 Port Agent 1 Assistant Port Agent

Galveston	1 Port Agent
Los Angeles/ Long Beach	1 Port Agent 1 Assistant Port Agent
San Francisco	1 Vice President/Port Agent 3 Assistant Port Agents
Portland	1 Assistant Port Agent
Seattle	1 Port Agent

(2) Any member meeting the qualifications for election as Vice President—Atlantic Ports, Vice President—Gulf Ports, and Vice President—Pacific Ports, shall be eligible for nomination and election as a Port Agent or Assistant Port Agent in the same manner and at the same time as International Officers are nominated and elected except that only three (3) signatures shall be required for a nominating petition. Unless legally removed, each such Port Agent or Assistant Port Agent shall serve for a period of three (3) years or until his successor is duly elected and installed.

b) Pilot Regional Representatives

(1) There shall be Pilot Regional Representatives for the Atlantic Coast, Gulf Coast and Pacific Coast, respectively. Further, such other geographical regions as established by the General Executive Board which may subsequently reach a membership of 100 or more shall be entitled to a Regional Representative. Such Regional Representative shall be appointed by the General Executive Board from, and on the recommendation of, the newly established Region Membership, to serve until the next regular election.

(2) Any member meeting the qualifications as Vice President—Pilotage shall be eligible for nomination and election as Pilot Regional Representative in the same manner and at the same time as International Officers are nominated and elected, except that only three (3) signatures shall be required for a nomination petition. Unless legally removed, each such Pilot Regional Representative shall serve for a period of three (3) years or until his successor is duly elected and installed.

c) Atlantic and Gulf Maritime Region

(1) The elected position for the Atlantic and Gulf Maritime Region (the former Atlantic and Gulf Region of the Inland Division), in addition to the Vice President, as set forth in Article V Section 2, shall be those as set forth in its Work Rules as of the date of the adoption of this Constitution, except that the titles and functions of such elected Representatives shall not apply or be implemented in a manner in conflict with the new restructuring of the Organization contained in this Constitution.

(2) The qualifications for such elected positions and the elective procedures set forth in the Work Rules shall govern the election of such Officers for the 1977 election. The elective procedures thereafter shall be the same as for all other Membership Groups and qualifications shall be the same as provided in Section 4(d) above.

d) *Pacific Maritime Region*

(1) The elected positions for the Pacific Maritime Region, in addition to the Vice President, as set forth in Article V Section 2, shall be those as set forth in the Work Rules of the Pacific Maritime Region as of the date of the adoption of this Constitution, (the former West Coast and Pacific Region of the Inland Division), except that the title and functions of such elected Representatives shall not apply or be implemented in a manner in conflict with the new restructuring of the Organization contained in this Constitution.

(2) The qualifications for such elected positions and the elective procedures set forth in the Work Rules shall govern the election of such Officers for the 1977 election. The elective procedures thereafter shall be the same as for all other Membership Groups and qualifications shall be the same as provided in Section 4(d) above.

e) *Other Regional Representatives*

Regional Representatives for other Membership Groups may be established in such numbers and for such areas as the General Executive Board shall determine initially. They may be elected at the next regular election following such time as the total membership in any such Membership Group reaches 500 or more. Further elections to such positions after the first one shall be established by amendment to this Constitution. Eligibility requirements and nomination and election procedures for such additional Membership Group Representatives shall be similar to those set forth in this Section or as specified by the General Executive Board.

f) *Field Representatives*

In addition to the Representatives listed above, the General Executive Board may from time to time, appoint such Field Representatives as it deems necessary to serve as Organization Representatives for such areas on such conditions and for such remuneration as it shall determine.

g) *Vacancies*

In the event of any vacancy in the position of any elected or appointed Representative through death, resignation or otherwise, the General Executive Board may for the period extending to the next election fill that vacancy by appointing a new Representative, request that another Representative fill the vacancy, transfer the functions of the vacant position to another Representative, or if it so chooses, leave the vacancy unfilled.

Section 7. Election of International Ballot Committee

An International Ballot Committee shall supervise the election and certify that the election was conducted in accordance with the International Constitution.

The Committee shall consist of five (5) members and a first, second, third, fourth and fifth Alternate, nominated and elected by the Convention who are not candidates for Office in the election to be supervised.

The Committee shall elect its own Chairman.

Section 8. List of Eligible Voters

a) Prior to the close of the nominating period, the International Secretary-Treasurer shall cause to be prepared in duplicate a listing of the active members of each Membership Group who have not been suspended for nonpayment of dues, which listing shall include the social security number and last known address of each such member as recorded on the Organization records, shall be dated and certified to by the International Secretary-Treasurer who shall furnish a copy of such listings to the Impartial Balloting Agency.

b) Each member whose name appears on the above list shall be mailed a ballot.

In the event a member's name appears on more than one list, he shall only receive one ballot for the election of the Officers constituting the International Subcommittee.

c) If for any reason any active member does not receive his ballot he may request, in writing, a ballot from the Impartial Balloting Agency. Such request shall include a statement that he has neither received nor voted any ballot in this election. The Impartial Balloting Agency shall issue a ballot to such member found entitled thereto. If a duplicate ballot is issued it will be clearly marked "DUPLICATE."

Section 9. Balloting Procedure

a) (1) The Impartial Balloting Agency shall send out sufficient sample Official ballots for the Membership Groups of the Organization and each such ballot shall bear the names of only the candidates who have been nominated and who shall have notified the International Secretary-Treasurer of their acceptance of such nomination that the respective Membership Group is entitled to vote upon. The form of the Official ballot shall be stamped across the body of the ballot "SAMPLE." Sample ballots shall not be defaced.

(2) The ballots for each Membership Group shall contain only the names of the candidates in elections in which the members of such Group may vote as provided in Section 3 of this Article.

b) The ballot shall be enclosed in an envelope which shall have only the following printed thereon: "SECRET BALLOT."

The SECRET BALLOT envelope shall be enclosed in an outer envelope which shall have the following information completed by the member in the upper left hand corner: his printed name and address, his Membership Group, social security number, and his signature. This envelope shall be pre-stamped and self-addressed to the Depository designated

by the Impartial Balloting Agency to be kept for tabulation and certification purposes.

c) The Impartial Balloting Agency shall be responsible for making all arrangements for such Depository and for the placing therein of the locked and sealed ballot box of the Organization. All such arrangements shall be subject to the approval of the International Ballot Committee. The Impartial Balloting Agency shall retain in its possession the keys to the locked and sealed ballot box until the election results have been certified by the Impartial Balloting Agency.

d) Immediately following the tenth day after the close of the nominating period, the Impartial Balloting Agency under the supervision of the International Ballot Committee shall prepare the Official ballot and shall mail one such ballot to each member of the Organization who has not been suspended for non-payment of dues at the time the ballots are mailed out. All ballots shall be mailed not later than the thirtieth day following the close of the nominating period at which nominations have been made.

e) In any case where a member has listed an Office of the Organization or care of an Official of the Organization as his last known address, the Impartial Balloting Agency shall mail a notice to such member at that address informing such member of the means by which he can obtain his ballot. The Impartial Balloting Agency shall not send any ballot to an Office of the Organization nor in care of an Official thereof except the Official's own ballot to his own home.

f) The International Ballot shall be officially closed 70 days after the date of mailing of the ballots by the Impartial Balloting Agency. All ballots received later than that date shall be declared void. In the case of those members receiving duplicate ballots, the ballot counted shall be the ballot bearing the earliest date stamp of the Impartial Balloting Agency.

g) The members of the Official International Ballot Committee and the Impartial Balloting Agency shall be empowered with an order executed by the Organization and signed by the International President and International Secretary-Treasurer and under the seal of the Organization to proceed within seven (7) days following the close of the balloting to the Depository where the locked and sealed ballot box is kept. Upon presenting the duly executed order to the custodian of the Depository said custodian shall deliver the ballot box which shall contain all ballots which have been cast.

h) The Impartial Balloting Agency shall proceed then to counting the ballots. Candidates receiving a plurality vote of the general membership for each Office, except as provided in Section 3 (a) above, shall be declared elected and a certification of the results shall be made by the Impartial Balloting Agency. Telegrams or other communications shall be sent to all Parts of the Organization containing the results of said elections.

i) Challenges to the election may be made to the International Ballot Committee at the time of the counting of the

ballot by the candidate or his representative observer who shall possess certification of same from the candidate he represents. Appeals from rulings of the Ballot Committee shall be taken to the General Executive Board and then to the Convention. Challenges to the election may also be made to the General Executive Board, in writing, within 30 days from the date of completion of the counting of the ballot. An appeal from the ruling of the General Executive Board may be taken to the Convention.

j) The ballots and all records pertaining to the election must be preserved for one (1) year.

Section 10. Miscellaneous Election Matters

a) Any candidate desiring to distribute literature in connection with his candidacy, as provided under Section 401 (c) of the Labor-Management Reporting and Disclosure Act of 1959, shall be required to pay in advance for the cost of such distribution. The amount shall be certified by the independent mailing service as designated by the Impartial Balloting Agency. The Impartial Balloting Agency shall make appropriate arrangements for the security of the mailing list. The Impartial Balloting Agency shall immediately notify the candidates of the name of the mailing service and the cost of distribution of the candidate's literature.

b) Installation of Officers shall take place not later than 30 days after the certified results of the ballot are known, at the convenience of the successful candidate.

Section 11. Vacancies in International Office

a) In the event there is a vacancy in the Office of International President, the International Executive Vice President shall assume the Office for the remainder of the term. If the International Executive Vice President declines the position, it shall be filled by the International Secretary-Treasurer. If the International Secretary-Treasurer declines the position, it shall be filled as provided in subsection (b) below.

b) Except for the succession procedure set forth in subsection (a) above, any vacancy in any International Office shall be filled by majority vote of the General Executive Board until the next regular election.

Section 12. Suspension and Removal of International Officers and Elected Membership Group Representatives

a) International Officers—The General Executive Board shall have the power to suspend any International Officer from Office by the two-thirds majority vote of the entire Board. Immediately after any suspension, the General Executive Board shall submit a recall referendum ballot to the appropriate membership of the Organization which shall contain a description of the offense(s) and the approximate dates thereof.

If the majority vote of the membership approves the suspension action the suspended International Officer shall be deemed removed from Office. If the majority vote of the membership disapproves the suspension action, the suspended International Officer shall be deemed fully restored to his Office.

Alternatively, any elected Officer of the International may be recalled by a secret majority referendum vote of the appropriate membership. Such a referendum shall be initiated by a petition signed by twenty-five percent (25%) of the members in good standing of the appropriate Membership Group. The validity of the signatures on such petition shall be determined by reasonable procedures adopted by the General Executive Board. If the majority vote of the membership approves the recall, the International Officer shall be deemed removed from Office. If the majority vote of the membership disapproves the recall, the International Officer shall remain in Office.

h) Elected Membership Group Representatives: The procedures set forth in the applicable membership Work Rules relating to suspension or recall shall apply to elected Membership Group Representatives.

Article VI

AUTHORITY AND DUTIES OF INTERNATIONAL OFFICERS, INTERNATIONAL SUBCOMMITTEE AND REPRESENTATIVES

Section 1. Duties of International President

It shall be the duty of the International President and he is hereby authorized to:

a) act as the Executive Officer of the Organization and render services thereto in accordance with the directives of this Constitution, the General Executive Board and the membership acting in Conventions or referenda;

b) preside at all Conventions and General Executive Board meetings and shall have the deciding vote in case of a tie on any question on which he has not already voted;

c) upon submission of a grievance, or grievances, to him by a member, he shall initially decide on all points of law and interpretation of the Constitution, after consultation with International Counsel. When a decision is reached in this manner and the International President orders the member to observe the laws, rules and regulations and the member refuses, then he shall be subject to appropriate discipline;

d) *ex officio* be a member of all Committees with full voice but without vote except for Committees to which he is specifically named by the General Executive Board or this Constitution;

e) supervise the affairs of the Organization in accordance with the requirements of law and the directives of this

Constitution, the General Executive Board and the membership (expressed in Conventions or referenda), acting to further the interest of the membership;

f) accept a call to serve by the Government of the United States if he believes it is in the best interests of the Organization to accept. In such cases his position and remuneration with respect to the Organization shall continue. If such service is for more than 30 days, it shall require approval of the General Executive Board by its majority vote;

g) delegate to a person or persons the execution of such of his duties as he may decide; provided, however, that the responsibility of the International President as provided in this Constitution or by statute shall not be delegated;

h) supervise the other International Officers assigning them to such duties at such locations as in his opinion will permit the work of the Organization to be handled in the most efficient manner, provided such assignment shall not conflict with specific Constitutional duties of such other Officers or directives of a majority of the International Subcommittee, General Executive Board or the membership in Convention or referenda;

i) serve as Chairman of the Editorial Board of the official publication of the Organization, "THE MASTER, MATE AND PILOT";

j) sign all official documents on behalf of the Organization when required;

k) attend and participate at meetings of the membership and to visit any vessel or work location at which members are employed.

Section 2. Duties of International Executive Vice President

It shall be the duty of the International Executive Vice President and he is hereby authorized to:

a) perform such duties as may be required of him by the International President, subject to the provisions of Section 1 (h) above;

b) preside at a Convention, General Executive Board Meeting or any meeting normally chaired by the International President when the latter is not able to perform such functions;

c) serve as the International President in the event a vacancy in that Office occurs.

Section 3. Duties of International Secretary-Treasurer

The International Secretary-Treasurer shall be the Financial Officer of the Organization.

It shall be the duty of the International Secretary-Treasurer and he is hereby authorized to:

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a) receive all monies paid to the Organization and give an official receipt for same;

b) keep an accurate account of all monies received and disbursed. He shall keep an accurate list of all members of the Organization which shall include members of affiliated bodies, if any, based on information furnished by the appropriate Officer of each affiliated body, showing the standing of each member with regard to such member's payment of dues, assessments and other monies required to be paid to the Organization;

c) render a complete report to the General Executive Board meeting and Convention giving a complete statement of membership records for the previous year, all monies received and to whom and for what paid out, the amount disbursed during the year and assets and liabilities of the Organization, together with the cash balance on hand at the close of the fiscal year.

At the end of each fiscal year, the International Secretary-Treasurer shall present a CPA's audit for posting on the bulletin board at each Office of the Organization and for distribution to the membership through the official publication;

d) keep a true record of all transactions of the Organization;

e) in accordance with policies of the General Executive Board, deposit all monies received to the credit of the Organization in a bank or banks as he shall determine will offer the most advantageous yield consistent with safety and good financial management and shall sign or cause to be signed all checks duly authorized for the purpose of paying current expenses.

Should the International Secretary-Treasurer be unable to perform these duties solely by reason of vacation, sick leave, leave of absence or any leave where during such period he relinquishes his duties, is unable to sign such checks or give written permission therefor, the International President, or the International Executive Vice President if so required by the International President shall have the authority to sign such checks and have access to the accounts or safe deposit box, and the bank(s) shall be so notified by a designee of the General Executive Board;

f) perform other duties not in conflict with this Section as the International President or General Executive Board may delegate to him from time to time, subject to the provisions of Section 1 (h) above;

g) preserve and have custody of all correspondence concerning the Organization and all its property, securities, documents, books, official seals, records, etc., wherever located. He shall issue all applicant cards, membership cards or books, transfer cards, withdrawal cards (if any) and all other forms of membership identification authorized by the Organization with said identification to be also signed by the appropriate Membership Group Vice President;

h) hire such clerical help as is necessary to carry on the business of the Organization and to meet his official duties,

and to determine the remuneration and Working Rules and conditions of such employees with the approval of the International Subcommittee;

i) arrange for the preparation and distribution of minutes or other records of the actions taken or business discussed at Conventions, General Executive Board Meetings and other important correspondence related to the activities of the Organization;

j) cause the payment of proper bills and expenses of the Organization when supported by satisfactory statements or vouchers;

k) maintain such records or prepare such reports as may be required by Federal, State or local law;

l) deliver to his successor all funds and property of the Organization in his possession at the expiration of his official term.

Section 4. *Duties of the International Subcommittee*

It shall be the duty of the International Subcommittee, which shall consist of the International President, International Executive Vice President, and the International Secretary-Treasurer, to conduct the affairs of the Organization between meetings of the General Executive Board. It shall have full authority to act on behalf of the Organization, subject to the action of the next meeting of the General Executive Board or Convention.

By way of illustration, and not limitation, the International Subcommittee is authorized to:

a) grant dispensation authorizing appropriate bodies to organize and authorizing groups to operate until such time as they receive their Charters of Affiliation with the approval of the General Executive Board;

b) by virtue of their Offices, be Delegates to all Conventions, meetings or other assemblages of any labor organizations or Subordinate Body thereof or other body or entity of which the International Organization of Masters, Mates and Pilots is an affiliate or member. Each such Official of the Organization voting at any such Convention, meeting or assemblage shall cast a pro rata share of the vote accorded to the Organization;

c) be responsible for the administrative and ministerial implementation of all executive, legislative and judicial policies or directives of the Convention or General Executive Board (including those relating to strikes, membership transfers and finances) of the Convention or General Executive Board unless specific responsibility therefor is otherwise provided by law, this Constitution, the Convention or the General Executive Board;

d) with the prior approval of the General Executive Board, appoint, fix the compensation of and terminate such Organizers, Representatives, Assistants, Counsel, Account-

ants and other professional personnel as may be required to carry out the objectives of the Organization.

Section 5. Duties of the Vice Presidents

The primary responsibility of the Vice Presidents is to represent on the General Executive Board, and to service the specialized needs of, the Membership Group, or Area for or by which elected. In addition they shall be responsible and available at the direction of the General Executive Board to assist any other Membership Group or Area in the furtherance of the common goals of the Organization.

In furtherance of the foregoing and by way of illustration, and not limitation, they shall:

a) supervise the Port Agents, Assistant Port Agents or other Representatives of the Organization in the Membership Group or Area for or by which elected;

b) have authority to call and preside over meetings of the membership in his Area or Group to discuss and adopt resolutions concerning matters which affect such Area or Group. The action proposed by a majority of the members at any such meeting shall be subject to International Subcommittee or General Executive Board action;

c) propose to the General Executive Board the development, amendment, and be responsible for enforcement of applicable Working Rules, Shipping Rules, quotas and membership service programs within or for the Membership Group or Area for or by which elected and be responsible to conduct any membership referendum in connection therewith as directed by action of the General Executive Board;

d) be responsible to present to the General Executive Board each year an estimate of the anticipated expenditures for the following year in connection with the activities of the Organization among or in the Membership Group or Area for or by which elected in sufficient detail to enable the General Executive Board to prepare proposed budgets for the Organization;

e) have such other duties and responsibilities as may from time to time be assigned by proper authority.

Section 6. Authority and Duties of Representatives

The responsibility of Port Agents, Assistant Port Agents, Regional Representatives, Field Representatives, Branch Agents, Assistant Branch Agents and other Representatives is to service the specialized needs of the active and retired membership in the Port or Region for which they are elected or designated and to supervise all of the Organization's activities in that Port or Region.

While provision is made herein for election of Representatives from among the Membership Group most directly involved with and affected by the activities of such Repre-

sentative, it is the intent of this Organization that each such Representative, under direction from the General Executive Board, shall be under the duty to fully and fairly meet the requirements for service to all members of the Organization and not just those from or by whom elected.

The responsibility of the various types of Representatives are as follows:

a) Port Agents

By way of illustration and not limitation, Port Agents are authorized and required, under the direction and supervision of the Area Vice President, to supervise and direct Assistant Port Agents and other Port Representatives, to supervise employees in the Port for which he is elected, to coordinate and regulate the membership affairs in his Port including enforcement of the International Constitution, applicable Work Rules, Shipping Rules and Collective Bargaining Agreements, the handling of grievances for members, the collection and transmittal to the International Office of dues, the receipt and transmittal of communications among members and the various Offices and Governing Bodies of the Organization and the dispatching of jobs and operation of Hiring Halls. In addition, the Port Agent shall have authority to preside over meetings of the membership in his Port, held in accordance with Work Rules of the Off-shore Membership, except when the Area Vice President is present, in which case the Vice President may preside if he wishes. In the absence of the Port Agent and the Area Vice President, the Port Agent shall designate the person who shall preside at any meeting. The Port Agent shall also have responsibility for assisting the Vice President in the performance of his duties. He shall also carry out any assignments for members of other Membership Groups by direction of the International Subcommittee or General Executive Board.

b) Assistant Port Agents

Under the direction of the Port Agent and Area Vice President, Assistant Port Agents shall assist the Port Agent for the Port for which he is elected in carrying out the Port Agent's duties. In addition, Assistant Port Agents shall carry out any other duties and responsibilities for members of any other Membership Group by direction of the International Subcommittee, General Executive Board or Area Vice President. Where an Assistant Port Agent is serving in a Port where there is no Port Agent, that Assistant Port Agent shall carry out all responsibilities of Port Agent as described above under supervision of the Area Vice President and shall carry out such other duties and responsibilities as are assigned to him by proper authority.

c) Field Representatives

Under the supervision of the Area Vice President, it shall be the responsibility of any Field Representative to supervise and conduct all Organization affairs and to service all needs of the membership in the Port or Area to which he is assigned and to carry out such other duties and responsibilities as are assigned to him by proper authority.

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Pilot Regional Representatives

Pilot Regional Representatives, within the limitations of the Constitution, shall by virtue of their election, serve as representatives to all Conventions during the term for which elected. In addition, by way of illustration and not limitation, Pilot Regional Representatives are authorized and required under the direction and supervision of the Vice President—Pilotage, to supervise any Organization employing the Region for which they are elected, to coordinate the membership affairs in their Regions including the development of the International Constitution and applicable Work Rules, the collection and transmittal to the International Office of dues, the receipt and transmittal of contributions among members and the various Offices and Subordinate Bodies of the Organization, resolution of jurisdictional disputes; liaison, if requested, with Pilotage and other governmental agencies or legislative bodies; regulation of membership admission and supervision of interrelationships among various groups. The Pilot Regional Representative shall also serve as Vice President—Pilotage in the performance of his duties. He shall also carry out such other duties and responsibilities as are assigned to him by proper authority.

Branch Agents, Assistant Branch Agents and Other Elected Representatives

Duties and responsibilities of Branch Agents, Assistant Branch Agents and other elected Representatives shall be determined by the applicable Work Rules of the appropriate Subordinate Group, except where such duties and responsibilities conflict with the new restructuring of the Organization contained in this Constitution.

Section 2. Denumeration of International Officers and Elected Representatives

Effective upon the adoption of this Constitution, except for the compensation and benefits of the International President, International Executive Vice President and International Secretary-Treasurer shall continue, including the salary and benefits as established by the 63rd Convention in San Francisco, California, February 1977. Such salary and benefits are as follows:

President	\$48,000.00 Annually
Executive Vice President	42,000.00 Annually
Secretary-Treasurer	42,000.00 Annually

International Officers shall receive 60 days annual vacation with the option to take cash-in-lieu of vacation days or to take vacation days at the end of the Officers' term of office. If the vacation days are taken at the end of the term of office, they shall be treated as days of covered employment.

Any changes thereafter in compensation or benefits for their services as such Officials shall be as the International Convention may determine. They shall be reimbursed for all

reasonable expenses incurred in the performance of the duties of their Office.

b) Effective on the adoption of this Constitution the Vice Presidents shall receive from the Organization the salaries and benefits in existence and provided for them by their respective former Subordinate Bodies on the date of adoption of this Constitution. Any changes thereafter shall be made by appropriate membership referendum. They shall be reimbursed for all reasonable expenses incurred in the performance of the duties of their Office.

c) Effective on the adoption of this Constitution, the Organization shall pay the salary, benefits, and allowances provided for Port Agents, Assistant Port Agents, Field Representatives, Pilot Regional Representatives, Branch Agents, Assistant Branch Agents, and other Representatives of former Subordinate Bodies as were provided by their respective former Subordinate Bodies on the date of adoption of this Constitution. Any changes thereafter for elective positions shall be made by appropriate membership referendum. They shall be reimbursed for all reasonable expenses incurred in the performance of the duties of their Office.

Article VII GENERAL EXECUTIVE BOARD

Section 1. Voting Procedure

a) Each member of the General Executive Board shall have one (1) vote and except as specifically provided elsewhere in this Constitution, a majority of votes cast at any meeting of the Board shall be necessary to adopt any resolution.

b) A majority of the General Executive Board members shall constitute a quorum.

Section 2. Meetings

a) Meetings of the General Executive Board shall be held at least four (4) times each year. They shall be held at such times and in such places as the International Subcommittee shall determine, provided, however, one of these meetings shall be held as soon as possible after receipt of the annual audit.

b) Meetings of the General Executive Board shall be on not less than 10 days' notice, except for emergency meetings. Upon the receipt of the call of the General Executive Board meeting, each Board Member shall within 48 hours, advise the International Office whether he will attend.

c) A meeting of the General Executive Board may be called by petition of a majority of Board Members specifying the time, date and place therefor.

d) On matters requiring action by the General Executive Board when it is not in formal session, it may act by telegraph, letter or long distance telephone. When a mem-

ber of the International Subcommittee requires action by the General Executive Board, he may obtain same by telegraphing, writing or telephoning to the members of the General Executive Board and such members may take action on the matter brought to their attention in the same manner. Such action so taken by the majority of the Members of the General Executive Board shall constitute action of the Board as though the Board were in formal session, shall be reduced to writing and shall be included in the minutes of the next meeting of the General Executive Board.

Section 3. Duties and Authority

Between Conventions and except where specific authority is otherwise placed by this Constitution, the General Executive Board is vested with all of the general executive, legislative and judicial powers of the Organization and over its property and affairs, which powers may not be delegated to any other committee, board, group or persons; provided, however, that this shall not prevent the delegation of administrative and ministerial functions to duly authorized Committees, Subcommittees, Officers or Officials. All actions of the General Executive Board shall be subject to approval or rejection by the next regular Convention.

The General Executive Board shall act upon and decide on all appeals presented to it. Second only to the Convention in authority, it shall act between Conventions on all matters related to the welfare of the Organization not specifically prohibited by this Constitution or restricted by action of the membership in referendum ballot and shall decide on all questions of law. By way of illustration, and not limitation, the General Executive Board is hereby authorized to:

- a) supervise the activities, affairs and functioning of the Organization, its Officers and Officials;
- b) act on the issuance or suspension of charters of affiliated bodies, as recommended by the International Subcommittee;
- c) establish, and order compliance with, such rules, regulations or procedures, consistent with this Constitution, as are required for the effective management of the affairs of the Organization;
- d) provide for the salaries, allowances, direct and indirect disbursements, expenses and reimbursement of expenses for Officers, Representatives, Agents and employees which are not otherwise covered in this Constitution;
- e) establish such benefits as may be required to attract and retain interested and competent personnel, including but not limited to pensions, welfare, vacations, holidays, severance pay, tuition or scholarship, and insurance benefits;
- f) lease, buy, sell, mortgage or dispose on behalf of the Organization of any property, rights or privileges as it thinks is desirable to meet the objectives and purposes of the membership; and provide for direct and indirect loans for

such purposes and with such security, if any, as it deems appropriate and with such arrangement for repayment as it deems appropriate, all to the extent permitted by law;

- g) act on affiliations involving the Organization;
- h) decide questions of jurisdiction and conclude organizational and jurisdictional agreements with other labor organizations;
- i) provide financial assistance from the general assets of the Organization to any affiliated body;
- j) on behalf of the Organization, its Officers, Representatives, employees, or members, to initiate, defend, compromise, settle, arbitrate or release or to pay the expenses and costs of any legal proceedings or actions of any nature if in its judgment it shall be necessary or desirable to protect, preserve or advance the interests of the Organization;
- k) levy assessments for necessary revenue in accordance with this Constitution;
- l) act on the merger of affiliated bodies and in this connection may conduct a referendum vote among all the members of the affiliated bodies involved;
- m) establish such marks, labels or other insignia to identify the Organization or to improve the professional recognition and status of the membership;
- n) appoint a person to fill a vacancy in Office (elective or appointive), where procedures are not otherwise provided in this Constitution, to serve until the next regular election for that Office, if it is elective rather than appointive; provided, however, persons appointed to fill elective Office must be persons meeting the qualifications for nomination and election to such Office;
- o) refer questions or matters to a Subcommittee of the General Executive Board or the International Subcommittee which will decide or determine the disposition of such questions or matters, subject to action at the next meeting of the General Executive Board or Convention;
- p) conduct a poll of members on such subjects and under such rules as it may decide;
- q) The General Executive Board is empowered to establish Negotiating Committees of the Organization for the purpose of meeting with various companies and agencies with which the Organization has Contracts, or is negotiating Contracts, and with such governmental agencies as have direct bearing on the question of wages, hours, conditions, manning scales, and the like;
- r) establish Working Rules, including quotas and membership classifications for each Membership Group. Before establishing such Rules, however, they shall be submitted to the General Executive Board by the Vice President or Vice Presidents for each Membership Group for action and, upon approval, for distribution to the membership of each such Group for a vote. When approved by a majority vote

of the members of the relevant Group, the General Executive Board shall put into effect such Rules as applicable to that Membership Group;

s) whenever for the good and welfare of Organization members it is deemed necessary, it shall establish a program of benefits for Organization members involved in strikes or lock-outs from the General Fund of the Organization. The quality and quantity of such benefits shall be solely at the discretion of the General Executive Board;

t) designate from its members a Contracts Officer for each Membership Group and assign to him such functions and responsibilities as reasonably and properly may be required.

u) In addition to the foregoing, the General Executive Board is authorized to act on such other matters as may from time to time come before it unless specifically prohibited by law, this Constitution, or action by the membership in referendum ballot.

Article VIII REVENUE AND FUNDS

The membership recognizes that one of the responsibilities of union membership is the obligation of each member to pay his own fair share of the cost of maintaining the Organization, its Offices, its clerical and administrative staff, its elective and appointed Officers and Officials, while at the same time supporting the financial obligation of per capita or dues payments as a result of affiliation agreements with other local, national and international labor organizations intended to further the aims and policies of the union.

Effective upon adoption of this Constitution, the Organization will assume all costs of per capita being paid by individual Membership Groups and to local, national or international labor organizations; where previously done so, it shall continue to remit to local, national or international labor organizations per capita payments on behalf of the entire membership; it shall also assume all operating costs being paid by the former Subordinate Body representing the individual Membership Groups.

Section 1. *Per Capita and International Dues*

a) Effective upon adoption of this Constitution, no further per capita or international dues payments shall be deducted from membership dues. All such monies shall be paid into the General Fund without deduction.

Section 2. *Membership Dues*

a) Except as hereinafter noted, effective upon adoption of this Constitution, the dues of a member shall be calculated and paid to the Organization in the same manner as provided for in the Work Rules of the Membership Group of which he was a member at the time of the adoption of this Constitution; provided, however, that members of

former Local 30 and former Local 27 shall pay the dues applicable to the Membership Group that the membership of each Local shall vote to align itself with.

b) Increases from the present level of membership dues shall be made only by a majority vote in a referendum ballot among the membership of each individual Membership Group.

Reductions in individual Membership Group dues may be made as hereinafter described.

c) As a result of reductions in the number of paid Officials and because this Constitution eliminates the need for costly and unnecessary duplications of Offices, staff and another set of Executive and Financial Officers which otherwise would have been required, effective upon adoption of this Constitution the Offshore Membership Group's dues rate on gross vacation earnings shall be reduced from 6% to 5% of such gross vacation earnings.

d) Further reductions of either a temporary or permanent nature may be made in the dues rates of individual Membership Groups by the General Executive Board after receiving an estimate of anticipated expenditures and revenues from the International Vice President(s) in each individual Membership Group. Such budgetary review shall be required on an annual basis in accordance with Article VI, Section 2.

Section 3. *Initiation Fees*

a) Effective upon adoption of this Constitution, the initiation fee for an Applicant to membership in an individual Membership Group shall be the same as provided in the Work Rules of the applicable Membership Group.

b) Increases in initiation fees shall not be promulgated except as approved by a majority vote of the individual Membership Group in secret referendum balloting.

c) Applicants for membership shall pay with their applications such sum of money as the rules specify, and such schedule of payments towards their full initiation fee as the rules specify. No payments of initiation fees, either in whole or in part, shall be returnable to the Applicant unless his membership application is formally denied.

d) The International Subcommittee or the General Executive Board shall have the authority to provide, on an individual application basis or otherwise, for a lower initiation fee or to waive same entirely.

Article IX MEMBERSHIP GROUPS

Section 1. *Jurisdiction of Membership Groups*

The jurisdiction of any existing Subordinate Body and any existing Membership Group shall remain unchanged. All questions of jurisdiction between Membership Groups shall be decided by the General Executive Board.

Section 2. Working and/or Shipping Rules

a) Each Membership Group may formulate Working and/or Shipping Rules which are not in conflict with this Constitution.

Section 3. Safeguards Against Improper Disciplinary Actions

a) The basis for charges against any member of the Organization shall be as follows:

- 1) Violation of the International Constitution or an applicable membership Working Rules or Shipping Rules;
- 2) disobedience of any lawful regulation, rules, orders, or mandates of the Organization;
- 3) violation of the Oath of Loyalty to the Organization;
- 4) secession or fostering same.

b) No member of this Organization may be fined, suspended, expelled, or otherwise disciplined except for non-payment of dues unless such member has been:

- 1) served with written specific charges;
- 2) given reasonable time to prepare a defense;

3) afforded a full and fair hearing by a Trial Committee elected in accordance with the Working Rules of his Membership Group, or by a Trial Committee selected by International Subcommittee. The findings and judgment of this Trial Committee shall be effective when submitted in writing to the International Secretary-Treasurer.

c) 1) Appeals from discipline shall be made to the General Executive Board or the International Convention.

2) All appeals must be taken within 15 days from the date of the findings of the Trial Committee and after reasonable notice to the accused. The appellant shall file a written notice of appeal with the International Secretary-Treasurer and the notice shall clearly state that an appeal is being taken from the particular decision in a particular case.

3) Pending any appeal, the decision appealed from shall remain in full force and effect unless otherwise provided.

4) The Appellate Body shall fix the date when an appeal will be considered and the accused shall be given reasonable notice thereof.

5) The accused shall have the right to appear before Appellate Bodies and present argument on his case.

6) At the discretion of the Body hearing the appeal, appeals shall be heard either on the record made before the Trial Committee or by a further hearing.

Section 4. Surrender of Union Card

Any member disciplined or expelled may be required to surrender his union card or book.

Section 5. Individual Responsibility of any Elected Representative, Agent, Employer or Member

Any elected Representative, Agent, employee or member who makes or authorizes or votes for, or joins in the making or authorization of any payment out of the funds of the Organization, or the creating of any expense, charge or lien of any nature to, or upon any of the funds or property of the Organization, contrary to any of the provisions of this Constitution, or contrary to any order of either the International Subcommittee or the General Executive Board shall be individually liable to the Organization for the amount of such payment, expense, charge or lien and for all damages sustained by the Organization, resulting from such payments or the creation of such expense, charge, or lien, and for all expenses incurred by the Organization, in the recovery of such payment, or the contesting of any such expense or lien.

Section 6. Prohibition Against Employment of Counsel Chargeable to the Organization

No individual member or members of this Organization shall employ counsel chargeable to the Organization.

Article X

AMENDMENT OF CONSTITUTION

Section 1. Assessments and Amendments

a) Subsequent to the adoption of this Constitution, any future assessments, or any Constitutional amendment shall be adopted in the following manner:

1) a two-thirds' majority pro rata vote in a Regular, Special or Constitutional Convention; and

2) approved by a majority vote of the membership voting in a secret referendum ballot.

b) The General Executive Board by a two-thirds' majority vote shall have the power to levy an emergency assessment. Such action of the General Executive Board must be ratified by a majority vote in a 45 day referendum ballot, in which all members in good standing of the Organization are eligible to vote. Such action shall be effective only until the next regular Convention.

In the event the emergency assessment is limited to the membership of a Membership Group, such action must be ratified in the foregoing manner by referendum vote among the Membership Group which has been assessed.

c) The referendum ballots by the membership under Subsections (a) and (b) of this Section shall be conducted by an Impartial Balloting Agency, elected by the majority vote of the Convention or General Executive Board, whichever the case may be. The Impartial Balloting Agency shall be under the general supervision of a duly elected International Ballot Committee, which Committee shall also be elected by either the International Convention or the General Executive Board, whichever the case may be.

Section 2. Procedures for Proposal and Adoption of Resolutions

a) Amendments or resolutions proposed by Officers, members, or Delegates, which would amend the Constitution must be filed in writing with the International Secretary-Treasurer at least 30 days prior to the Convention at which they are to be considered. Copies of such resolutions or amendments shall be distributed to all Delegates, Officers and other facilities of the Organization prior to the commencement of the Convention with, if possible, an estimate of the cost factors involved with the proposal.

b) The Constitution Committee may submit a proposed amendment by a majority vote of its members, to the full Convention.

Section 3. State and Federal Law; Separability Clause

Any provision within this Constitution that is in direct conflict with any State or Federal Law shall not be enforced by the elected Officers of the Organization. The General Executive Board shall have authority between Conventions to amend this Constitution as necessary to remove any conflict between its provisions and those of any applicable Federal or State Law.

If any provision of this Constitution, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Constitution, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Article XI OTHER MATTERS

Section 1. Bonding of Officers, Representatives and Employees

All Officers, Representatives and employees of the Organization who handle funds or property of the Organization shall be bonded in accordance with Federal Law. The International Secretary-Treasurer shall advise each such Organization Officer, Representative and employee of its bonding requirements. The expense of such bonding shall be borne by the Organization and all bonds shall be held in trust by the International Secretary-Treasurer.

Section 2. Pledge for Officers and Elected or Appointed Representatives

All Officers and elected or appointed Representatives of the Organization shall, within 30 days of taking Office or commencing employment, sign the following pledge which shall be immediately forwarded to the International Secretary-Treasurer and filed by him:

"I hereby pledge that I will faithfully perform the duties of the Office which I shall hold; that I will observe, enforce and support the Constitution of the International Organization of Masters, Mates and Pilots (for Membership Groups add: 'and the Work Rules and Shipping Rules of') to the best of my ability. I believe in the democratic form of government and Constitution of the United States of America, and will defend the same to the best of my ability. I further pledge to work at all times for the best interests of the members of International Organization of Masters, Mates and Pilots, so help me God."

Section 3. Strikes and Lockouts

a) The International Subcommittee is authorized to direct a Membership Group to take a vote to accept or reject a proposed Contract, either by referendum ballot or by such procedure as is outlined in the Work Rules of the Membership Group or this Constitution.

b) Prior to a Membership Group becoming involved in a strike, lockout, boycott, lawsuit or other serious difficulty such Membership Group Vice President shall notify the International Subcommittee immediately of the nature of the difficulty and the action contemplated. If the action to be taken shall involve other Membership Groups or another labor organization, the International Subcommittee shall have the authority to modify or prohibit such action.

c) The Organization is authorized to establish programs to provide strike or out-of-work benefits in case of strike or lock-out, in accordance with this Constitution.

Section 4. Collective Bargaining Agreements

Agreements must be made in the name of the International Organization of Masters, Mates and Pilots. No Agreements shall be signed by an Officer without receiving the consent of the International Subcommittee. Original copies of all Agreements are to be forwarded to the Organization.

Section 5. Official Publication

a) The Organization shall publish and distribute to all members an official publication which shall be known as THE MASTER, MATE & PILOT. Such publication shall contain matters related to Organization functions, policies and activities.

The publication shall be a truly International paper, including articles and information from and to all Member-

ship Groups. The official publication shall be published on a regular basis with a fixed publication date.

b) The official publication shall be under the direction of an Editorial Board. The Editorial Board shall consist of all members of the General Executive Board. The policy of THE MASTER, MATE & PILOT shall be directed by the Editorial Board and the implementation of that policy shall be carried out by the Staff Editor under the supervision of the International Subcommittee.

c) Every member shall have the right to fair and reasonable access to the official publication for presentation of a point of view for or against proposed amendment to this Constitution submitted to referendum, or any other matters of general membership interest, subject to reasonable rules adopted by the General Executive Board.

Section 6. Balloting

All referenda shall be conducted by a Membership Ballot Committee. The ballots and all records pertaining to elections or referenda must be preserved for one year.

Article XII AFFILIATION OF THE INTERNATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS WITH THE INTERNATIONAL LONGSHOREMEN'S ASSOCIATION

The International Organization of Masters, Mates and Pilots shall become affiliated with the International Longshoremen's Association as the "International Organization of Masters, Mates and Pilots, the International Marine Division of the International Longshoremen's Association," and this affiliation shall be in accordance with the following principles and safeguards:

1. The International Marine Division shall be autonomous and have its own Officers, Subdivisions, and self-government.

2. The President of the International Organization of Masters, Mates and Pilots shall be the Representative of the International Marine Division on the International Longshoremen's Association Executive Council.

3. The International Marine Division will also be represented on the Executive Boards of the ILA's three existing geographical Districts: the Atlantic Coast District, the South Atlantic and Gulf Coast District, and the Great Lakes District. If the ILA establishes a Pacific Coast District, the IOMM&P will also have the right to be represented on the governing Board of that District.

4. Any maritime union, inland or offshore, which hereafter affiliates with the ILA shall become part of the International Marine Division.

5. The International Longshoremen's Association shall pay per capita tax on IOMM&P members to the AFL-CIO and this per capita tax shall be itemized separately as being made for members of the International Organization of Masters, Mates and Pilots. The IOMM&P shall pay per capita tax to the ILA.

6. At any time prior to October 1, 1975, either Organization, for any reason, may cancel the affiliation by written notice to the other, and the AFL-CIO Charter and jurisdiction of the IOMM&P shall remain with the IOMM&P.

In the event of any such cancellation, the IOMM&P shall continue to retain all of its books, records, Contracts, securities, funds, property, assets, Collective Bargaining Agreement(s) and Pension, Welfare, Vacation and Training Plan(s) rights, books, records, funds, property and assets of any description whatsoever. In the event of any such cancellation, any provision of the ILA Constitution which is contrary to the above, shall not apply.

In the event there has been any transfer of members or organic merger of Locals during the period that the IOMM&P has been a part of ILA, then, upon such cancellation, such transfer of members or organic merger of Locals shall be rescinded and the Parties restored insofar as possible to their status quo immediately prior to July 1, 1971.

NOTE: Subsequent to membership approval of the affiliation with the International Longshoremen's Association, as set forth above in Article XII, the General Executive Board under authority of Article VII, Section 2 g), acted to effect certain modifications of the terms of affiliation.

Such modifications, set forth in a letter dated August 5, 1975 and in an Agreement dated January 12, 1976, follow.

August 5, 1975

Capt. Frank T. Scavo, President
International Organization of
Masters, Mates and Pilots
39 Broadway
New York, N.Y. 10006
Dear Capt. Scavo:

I have been reviewing the agreement dated June 25, 1971, under which the MM&P affiliated with the ILA. Section 7 of that agreement gives either organization the right to cancel the affiliation and provides further that in such event, the AFL-CIO charter and jurisdiction of the MM&P, as well as all the MM&P assets, properties, agreements, etc., shall remain with the MM&P.

Under the 1971 agreement, however, Section 7 is effective only until October 1, 1975. None of the other provisions of the agreement has any terminal date. At the time we entered into that agreement, October 1, 1975 seemed a long way off. Now it is almost upon us.

The ILA does not wish to compel an autonomous organization like MM&P to remain affiliated with it against the wishes of that organization and its members. Nor do we wish to claim any of the assets and property of an organization such as MM&P which affiliates with us fully formed, having at the time its own membership, treasury, assets, properties, funds and agreements.

Accordingly, ILA hereby agrees that the October 1, 1975 terminal date for the provisions of Section 7 of our agreement of June 25, 1971 is hereby eliminated; and the provisions of Section 7 (consisting of two paragraphs) shall continue in effect thereafter, without terminal date, in the same manner as the balance of that agreement.

If this modification is agreeable to the MM&P, please sign your acceptance in the place provided below.

Sincerely and fraternally yours,

Dated:

**INTERNATIONAL LONGSHOREMEN'S
ASSOCIATION, AFL-CIO**

By

/s/ Thomas W. Gleason, President

**INTERNATIONAL ORGANIZATION OF
MASTERS, MATES AND PILOTS, AFL-CIO**

By

/s/ F.T. Scavo, President

By

/s/ R.J. Lowen, Secretary-Treasurer

**AGREEMENT OF AFFILIATION
AMONG
UNITED MARINE DIVISION (UMD)
AND
INTERNATIONAL ORGANIZATION OF
MASTERS, MATES AND PILOTS (MM&P)
AND
INTERNATIONAL LONGSHOREMEN'S ASSOCIATION
AF of L-CIO (ILA)**

AGREEMENT entered into as of this 12th day of January, 1976
by, between and among the UMD, MM&P and ILA.

WHEREAS, the MM&P is affiliated with the ILA pursuant to an
Agreement dated June 28, 1971 as amended on the 5th day of August,
1975 and

WHEREAS, the UMD and the MM&P are desirous of having
UMD affiliate with the ILA, and

WHEREAS, the parties are desirous of having both the MM&P
and UMD affiliated with the ILA as part of the ILA international
marine division, and

WHEREAS, in an effort to accomplish this objective the parties
have agreed to certain terms and conditions governing their relation-
ships with each other,

NOW, THEREFORE, it is agreed as follows:

1. The parties have read the agreement of affiliation between the
UMD and ILA and agree that it requires an amendment of the
Agreement of Affiliation between the ILA and MM&P dated June 28,
1971 as amended on the 5th day of August, 1975, and agree that
said agreement shall be amended in the following respects.

2. a) The parties agree that the UMD and the MM&P shall be
co-equals of the International Marine Division, that each shall occupy
a seat on the Executive Council of the ILA, that neither the UMD
nor the MM&P is subject or subordinate to the other and that each
shall function independently of one another on a totally autonomous
basis. It is the intention of the parties that any officers or government
of the International Marine Division must be mutually agreed upon
by the UMD and MM&P.

b) Neither the UMD nor the MM&P will be represented on any of
the ILA's existing geographical districts or any geographical district
hereinafter formed, unless they are both invited to join any such
district by the ILA, in which event they shall both be represented
equally on the Executive Board of such district.

3. Transfer of membership cards between UMD and MM&P
will be prohibited except by specific agreement between the parties
hereto.

IN WITNESS WHEREOF, the parties have executed this agree-
ment on the day and year first above written.

UNITED MARINE DIVISION

By

/s/ Joseph O'Hare

By

/s/ Albert M. Cornette

**INTERNATIONAL ORGANIZATION OF
MASTERS, MATES AND PILOTS**

By

/s/ F.T. Scavo

By

/s/ R.J. Lowen

**INTERNATIONAL LONGSHOREMEN'S
ASSOCIATION AF OF L-CIO**

By

/s/ Thomas Gleason

By

/s/ John Bowers

**Article XIII
EFFECTIVE DATE**

Section 1. Ratification

The effective date of this Constitution shall be upon
ratification. Thereafter, the provisions of the previous Con-
stitution shall become void except as otherwise provided in
this Constitution.

Article XIV TRANSITION PERIOD

Section 1. Administration

It is recognized that major changes in the structure of the Organization cannot be accomplished without careful planning and extensive work by Officers and employees. Consequently, upon certification by the Impartial Balloting Agency that the membership has ratified this Constitution, the Officers of the Organization are hereby authorized to take such steps as are necessary to accomplish the reorganization of the Organization as provided herein and to promote orderly transition from the former Organization. This includes, but shall not be limited to, administering the provisions of Collective Bargaining Agreements; changing the titles of Port Officers; arranging uniform administrative procedures, utilizing letterheads or other identifying matter carrying the new structure arrangement.

Section 2. Coordination Meetings

It is envisioned that frequent meetings and coordination of activity take place among Representatives of specific Membership Groups to address problems of common concern to each specific Membership Group. In the same manner, regional or geographical meetings with Representatives from all Membership Groups shall take place to address and confer on matters of localized common concern. Any proposals developed by such meetings shall be forwarded to headquarters for inclusion on the Agenda of the next meeting of the General Executive Board, which Agendas shall be distributed to the members of the General Executive Board in advance of each meeting. The coordination meetings mentioned in this Section 2 shall be scheduled on at least a quarterly basis. The meetings shall be on a continuing basis and shall not be for just the transition period mentioned in this Article XIV.

The elected Representatives serving at the time of the ratification of this Constitution who are not members of the General Executive Board as described in Article V Section 2, shall continue to serve as Advisory Committees to their respective Vice Presidents and the General Executive Board until the completion of their terms of Office. Representatives elected to serve commencing in 1978 shall also serve as advisors to their respective Vice Presidents and the General Executive Board during their term of Office.

Section 3. General Executive Board Meeting

Within 30 days after ratification of this Constitution, the General Executive Board shall meet to take action on the following specific matters in addition to all others that may be required to implement this Constitution:

- 1) Establish procedures for the selection of:
 - a) Membership Committee;

- b) Negotiating Committees
- c) Working and Shipping Rules Committees
- d) Other Committees

In establishing such procedures, the following provisions shall apply:

(i) Where a Membership Group already has provisions in its Work Rules relating to the selection of such Committees, those provisions shall be followed.

(ii) Members of a Membership Group already acting as Committeemen shall continue in such positions until their successors are selected.

(iii) Members of a Committee for any particular Membership Group shall be selected from within the ranks of the said Membership Group.

2) Review the financial condition of the Organization and if financially possible implement a temporary or permanent reduction of membership dues in addition to the reduction already provided for in Article VIII, Section 2 of this Constitution, taking into account the projected savings to be realized by the new structure.

3) Provide for the orderly transition of former Locals 27 and 30 into the Organization with input provided by appropriate representation at the meeting as determined by the two former Canal Zone Locals which will be affected.

Section 4. Assets and Liabilities

The restructuring of the Organization herein provided for will result in the joining of all former Subordinate Bodies into a unified, functional entity working for the best interests of all members.

The assets and liabilities of the former Subordinate Bodies shall be assumed by the Organization under such conditions, timing and procedures as shall be determined by the General Executive Board and subject to the following provisions: It is recognized that in order to maintain continuity of Contract enforcement, membership services and organizational activities at not less than the level now in existence pursuant to the past policies and practices of each of the former fully formed Divisions and other Subordinate Bodies except as specifically changed by this Constitution, to the extent that revenues and funds from such membership are available, the following procedures are hereby established:

The first priority in the expenditure of membership revenues shall be dedicated to maintenance of the level of services being provided the membership from whom the dues are being collected. Any contemplated increase in dues revenues from a Membership Group shall be applied to the anticipated increase in the requirements for service, including but not limited to organizational activity for the membership of that Group.

For a period of five (5) years from the date of ratification of this Constitution, the respective assets of each of the former Subordinate Bodies at the time of ratification of this Constitution shall be segregated and maintained separately by the Financial Officer of this Organization. Each such segregated account shall be disbursed only pursuant to membership direction or authorization of the membership of the respective successor Membership Group.

Assets of all membership Building Trusts, such as the Washington Street Marine Officers Corp. (former Local 88); MaMaPi, Inc. (former Local 24); Masters, Mates and Pilots Building Association (former Local 90) shall remain the property of such Trusts and the Organization shall make no claim thereto.

Section 5. *Delegates and Alternate Delegates*

Nominations and elections of Delegates and Alternates to the Convention from Membership Groups shall be held at the same time and in the same manner as provided for other elected positions within the Membership Group as set forth in the Constitution. Any member of a Membership Group meeting the qualifications for nomination and election to an elected position in his Membership Group shall be eligible for nomination and election as a Convention Delegate or Alternate. Only three signatures shall be required for a nominating petition.

Section 6. *Continuing Application of By-Laws Provisions as Shipping Rules and Work Rules*

The provisions of the By-Laws, Shipping Rules and Work Rules of the former fully formed Divisions and other Subordinate Bodies including former Locals 27 and 30 shall, insofar as they are not inconsistent or in conflict with the provisions of this Constitution, continue in effect as Work Rules and/or Shipping Rules with respect to the applicable Membership Group until modified or changed by membership vote of any Membership Group as provided by their Work Rules.

Section 7. *Collective Bargaining Agreements*

Each member shall continue to have the right to vote on ratification of Collective Bargaining Agreements under which the member works.

Section 8. *Organization Obligations*

The Organization shall honor all Agreements, Trusts, Leases, documents, and other legal obligations to which its predecessor bodies were parties.

DIRECTORY OF PORT OFFICES

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Captain Robert J. Lowen, International President

Captain Allen C. Scott, International Executive Vice President

Captain Lloyd M. Martin, International Secretary-Treasurer

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 97103 (503) 325-2641

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COOS BAY PILOTS, P.O. Box 254, Coos Bay, Ore.
 97420 (503) 267-3508

CRESCENT RIVER PORT PILOTS, Suite 2004,
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DELAWARE PILOTS ASS'N. FOR BAY AND RIVER,
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 Wash. 98520 (206) 532-2761

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HOUSTON PILOTS, 8150 South Loop East, Houston, Tex.
 77017 (713) 645-4174

HUDSON RIVER PILOTS, 75 Alexander Street,
 Yonkers, N.Y. 10701

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LONG ISLAND SOUND PILOTS, P.O. Box 25, Newport
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 (205) 432-2659 or (205) 432-2630

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 23510 (804) 627-5435

NEW ORLEANS-BATON ROUGE SS PILOTS,
 210 Sanlin Building, New Orleans, La. (504) 525-5247

PANAMA CANAL PILOTS ASSOCIATION, Box 601,
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PUERTO RICO PILOTS, Mirasol #44, Playa Ponce, P.R.
 00731 (809) 844-6735

PUGET SOUND PILOTS, 2601 Elliott Avenue, Suite 5131,
 Seattle, Washington 98121 (206) 624-2212

SAN DIEGO PORT PILOTS, 615 Switzer Street,
 San Diego, Cal. 92101 (714) 233-7814

SAN FRANCISCO BAR PILOTS, Bulkhead Pier 7,
 San Francisco, Cal. 94111 (415) 362-5436

SAN FRANCISCO BAY PILOTS, (415) 362-5436

SANDY HOOK PILOTS, One Bay Street, Box 1694,
 Staten Island, N.Y. 10301 (212) 448-3900

SAVANNAH PILOTS ASSOCIATION, P.O. Box 9267,
 Savannah, Georgia 31402; 204 East Bay Street
 (912) 236-0226

SOUTHERN NEW ENGLAND PILOTS, 170 Westminster
 St., Providence, R.I. 02903, Room 600 (401) 331-4824

SOUTHEASTERN ALASKA, 217 Heckman Building, P.O.
 Box 6100, Ketchikan, Alaska 99901 (907) 225-9696

SOUTHWEST ALASKA PILOTS ASSOCIATION, Box
 977, Homer, Alaska 99603 (907) 235-8783

TAMPA BAY PILOTS, P.O. Box 381, 1104 First National
 Bank Bldg., Tampa, Fla. 33601 (813) 229-2302

WILMINGTON (N.C.) PILOTS, P.O. Box 366, Southport,
 N.C. 28461 (919) 763-4931/457-6909

INTERNATIONAL COUNSEL

EUGENE L. GARTLAND, General Counsel

BURTON M. EPSTEIN, Counsel

39 Broadway, Room 1711, New York, N.Y. 10006
 (212) 483-0272 • Telex 12-5858

PENSION, WELFARE & VACATION PLANS

MR. STEPHEN P. MAHER, Administrator

39 Broadway—20th Floor, New York 10006
 Tel. (212) 425-8530

IOMM&P MARITIME INSTITUTE OF TECHNOLOGY & GRADUATE STUDIES (MITAGS)

MR. MAX CARPENTER, Executive Director

5700 Hammonds Ferry Road, Linthicum Heights,
 Md. 21090 Tel. (301) 636-5700 • Telex 87-6370



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Frank T. Scavo, President
International Organization of Masters,
Mates and Pilots
39 Broadway
N.Y., New York 10006

Re: MUR 773

Dear Mr. Scavo:

The Federal Election Commission has found reasonable cause to believe that the International Organization of Masters, Mates and Pilots (IOMMP) has violated 2 U.S.C. 441b(b)(4)(A)(ii) by soliciting contributions to the Masters, Mates and Pilots Political Contribution Fund. (PCF), from those who are not members of the IOMMP, and 11 CFR 114.5(a)(2) by using PCF solicitation forms that do not inform the contributor of his right to contribute more or less than the suggested amount.

Please be advised that the Commission is under a duty to make every endeavor for a period of not less than thirty (30) days to correct such violation by informal methods of conference, conciliation and persuasion, and to enter into a conciliation agreement. 2 U.S.C. § 437g(a)(5)(A). If we are unable to reach agreement during that period, the Commission may, upon a finding of probable cause to believe a violation has occurred, institute civil suit. 2 U.S.C. § 437g(a)(5)(B).

Enclosed please find a conciliation agreement which this office is prepared to recommend to the Commission in settlement of this matter. If you agree with the provisions of this agreement, please sign it and return it to the Commission within ten days of your receipt of this letter.

If not, please contact Ms. Marsha Gentner, the attorney assigned to this matter, at (202) 523-4073 to discuss your objections to the agreement.

Sincerely,

William C. Oldaker
General Counsel

cc: Mr. Julian H. Singman
Landis, Cohen, Singman and Raugh
1019 19th. Street N.W.
Suite 500
Washington, D.C. 20036



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Harry Seidman
Masters, Mates and Pilots
Political Contribution Fund
Suite 500
1019 19th Street N.W.
Washington, D.C. 20036

Re: MUR 773

Dear Mr. Seidman:

The Federal Election Commission has found reasonable cause to believe the Masters, Mates and Pilots Political Contribution Fund (PCF) has violated 2 U.S.C. § 441b(b) (4) (A) (ii) by soliciting contributions to the PCF from those who are not members of its connected labor organization, the International Organization of Masters, Mates and Pilots; and 11 CFR 114.5(a) (2) by using solicitation forms that do not inform the individual solicited of the right to contribute more or less than the amount suggested on the form.

Please be advised that the Commission is under a duty to make every endeavor for a period of not less than thirty (30) days to correct such violation by informal methods of conference, conciliation and persuasion, and to enter into a conciliation agreement. 2 U.S.C. § 437g(a) (5) (A). If we are unable to reach agreement during that period, the Commission may, upon a finding of probable cause to believe a violation has occurred, institute civil suit. 2 U.S.C. § 437g(a) (5) (B).

Enclosed please find a conciliation agreement which this office is prepared to recommend to the Commission in settlement of this matter. If you agree with the provisions of this agreement, please sign it and return it to the Commission within ten days of your receipt of this letter.

- 2 -

If not, please contact Ms. Marsha G. Gentner, the attorney assigned to this matter, at (202) 523-4073 to discuss your objections to the agreement.

Sincerely,

William C. Oldaker
General Counsel

cc: Mr. Julian H. Singman
Landis, Cohen, Singman and Raugh
1019 19th. Street N.W.
Suite 500
Washington, D.C. 20036



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

MEMORANDUM TO

CHARLES STEELE

FROM:

MARJORIE W. EMMONS *mwe*

DATE:

JUNE 19, 1979

SUBJECT:

MUR 773 - Interim Investigative Report
dated 6-14-79; Received in OCS
6-18-79, 12:48

The above-named document was circulated on a 24
hour no-objection basis at 4:00, June 18, 1979.

The Commission Secretary's Office has received
no objections to the Interim Investigative Report as of
4:30 this date.

81049253844

June 18, 1979

MEMORANDUM TO: Marge Ennes
FROM: Jane Colgrove
SUBJECT: MUR 773

Please have the attached Interim Investigative Report on MUR 773 distributed to the Commission on a 24 hour no-objection basis.

Thank you.

81040253045

RECEIVED
OFFICE OF THE

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of
International Organization of
Masters, Mates & Pilots, et al.

79 JUN 18 P12:48

MUR 773

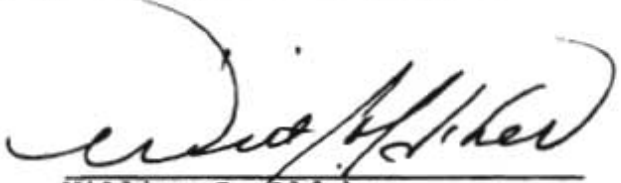
INTERIM INVESTIGATIVE REPORT

On March 8, 1979, the Commission found reason to believe the International Organization of Masters, Mates and Pilots ("IOMMP") and the Masters, Mates and Pilots Political Contribution Fund ("PCF") violated 2 U.S.C. § 441b(b)(4)(A)(ii) and 11 CFR 114.5(a)(2). Letters of notification were sent to the respondents.

Counsel for the IOMMP and PCF has recently submitted a response to the Commission's preliminary findings in this matter. The Office of General Counsel is currently in the process of reviewing this response, along with other materials submitted on behalf of the respondents in order to facilitate a complete investigation in this matter.

Date

6/14/79


William C. Oldaker
General Counsel

648353346

8007
10229

RECEIVED
FEDERAL ELECTION
COMMISSION

LAW OFFICES

LANDIS, COHEN, SINGMAN AND RAUH
1019 NINETEENTH STREET, N.W., SUITE 500
WASHINGTON, D.C. 20036
(202) 785-2080

JAMES M. LANDIS (1896-1964)
WALLACE M. COHEN *
JULIAN H. SINGMAN
B. MICHAEL RAUH
ANDREW D. BALL *
MARTIN SHULMAN *

'79 MAY 24 10:03
LACON WASHINGTON D.C.

May 25, 1979

HARRY FRIEDMAN
COUNSEL

* NOT ADMITTED IN VIRGINIA

VIRGINIA OFFICE
10100 MAIN STREET
FAIRFAX, VIRGINIA 22031
(703) 591-0100

William C. Oldaker, Esq., General Counsel
Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20463

902518

Re: MUR 773 (78)

Dear Mr. Oldaker:

With further reference to your letters of March 13, 1979 addressed to Mr. Frank T. Scavo, former President of the International Organization of Masters, Mates and Pilots, and Mr. Harry Seidman, Treasurer of the MM&P Political Contribution Fund, and with further reference to my letter to you of April 25, 1979, I wish first of all to apologize for the delay in responding further to you on this matter. The delay unfortunately was occasioned by the fact that various officers of the Organization have been constantly in travel status with respect to a number of Union emergencies throughout the country, and it was therefore impossible to secure all of the factual information required to respond fully to your letters until now.

We have already responded to your question concerning possible violations of 11 C. F. R. 114.5(a) and would appreciate a prompt response to my April 25 letter so that, if acceptable, we can make the changes there suggested.

With respect to the question concerning your reason to believe that the Organization and the PCF may have violated 2 U. S. C. §441b(b)(4)(A)(ii), we have previously indicated that, in the judgment of both the Organization and the PCF, solicitations of contributions to the PCF have never been made "from those who are not members of the International Organization of Masters, Mates and Pilots." In fact, as we stated in my April 25 letter, we have solicited only active and retired members of the Organization and have in fact received contributions from active and retired members of the

81040057947

William C. Oldaker, Esq.
May 25, 1979
Page Two

Organization only. From my conversations with your assistant counsel, Ms. Gentner, I learned that the chief question in this regard appears to be whether or not retired members of the Organization are "members" for purposes of the statute and for purposes of your regulation §114.1(e). We take the position that they are and hope you will agree with us.

Your regulation defines members of a labor organization as "persons who are currently satisfying the requirements for membership in a local, national or international labor organization." Ours is an international labor organization, and our retired members do meet our requirements for membership. In this connection I am enclosing for your use two copies of the current Constitution of the Organization and call your attention specifically to Article III, Section 6, of the Constitution dealing with "Termination of Membership." You will note from that provision that once a member of the Organization has met the requirements for membership which are stated earlier in Article III under Section 1 (and I believe there is no question that "retired members" at least once were "members"), there are only two ways for a member's membership to be finally terminated. The first, under Section 6(a), is by voluntary application for termination, and the second, under Section 6(b), is by suspension for nonpayment of obligations. In addition, under Section 10 of Article III there is a special provision that permits temporary withdrawals and reinstatements of members in special circumstances -- again, only by application.

You will note from Article III, Section 5(c) that a member is suspended only if he is "in arrears in dues and assessments or other indebtedness for six (6) months." Inasmuch as retired members are relieved of the obligation to pay dues or assessments, retired members cannot be suspended under that section. None of our retired members who have asked for termination is solicited.

Of course, retired members are not members "in good standing" as required by Section 5(a), but they are nonetheless members of the Organization and have always been considered so by the Organization without exception.

The precedential authority which we have been able to find that throws the most significant light on the Federal Election Commission's understanding of the term "member" is in Advisory Opinion 1977-67 issued with respect to the Public Service Political Action Committee. That Advisory Opinion emphasizes a number of significant points:

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William C. Oldaker, Esq.
May 25, 1979
Page Three

First, that "a person can only be considered a member of an organization if he or she knowingly has taken some affirmative steps to become a member of the organization." Page 4 of the Advisory Opinion. Of course, in the case of our retired members, that requirement has previously been met before retirement.

Second, that the solicitation of political contributions from members is based upon "the special relationship that the organization has to its members" and that such relationship "must be evidenced by the existence of rights and obligations vis-a-vis the [Organization]." Page 5 of the Advisory Opinion. Later in this letter we will set forth such rights and obligations.

Finally, that membership necessarily includes the right and opportunity to participate in policy-making of the organization by expression of views. Page 6 of the Advisory Opinion. We will also address this matter a bit later in this letter.

We wish also to call your attention to the Concurring Opinion of Chairman Aikens addressing itself specifically to labor organizations and cautioning against literal and strict comparisons between labor organizations and corporations. Her Concurring Opinion emphasizes that union members are "interested in improved wages and working conditions as negotiated through the collective bargaining process" and specifically refutes the notion that "mere payment of pre-determined dues" is a necessary indicium of membership. Page 2, Concurring Opinion. Note, too, that the Dissenting Opinion of Commissioners Harris and Staebler emphasizes that, "A bona fide membership organization is one which represents its members." Page 4 of the Dissent. As we will demonstrate, the Organization does in fact represent retired members, as well as active members in good standing.

In support of our position that the Organization's retired members meet the foregoing principles in defining for purposes of the Commission what a "member" is, we offer the following facts:

1. The Trust Agreement establishing the MM&P PCF specifically requires that the Board of Trustees (the governing body of the Fund) must contain "three retired members of the MM&P." Article II, Section 2, of the Agreement and Declaration of Trust. In addition, the Purposes of the Fund set forth in Article IV of the Agreement and Declaration of Trust refer to support and improvement of "members of the union, active, future or retired." Paragraphs 1 and 2.

William C. Oldaker, Esq.

May 25, 1979

Page Four

2. The principal functions of the Organization as set forth in the Preamble to the Constitution and in Article I, Section 3, include improvement of economic status for the industry generally and all its members and, in Section 3, specifically states as a purpose of the Organization "to improve ... retirement benefits of its members." In fact, the Organization does act to benefit all its members, including the retired members, and does bargain collectively for its retired members on each occasion that a new contract with employers is negotiated and executed. Part of every such agreement are provisions dealing with the payment of pensions to retired members, improvement of those pensions (for already retired members) and, most importantly, the funding of liabilities for past service of retired members. It is significant that at this very time the Organization is engaged in a major confrontation with the employers with whom it has contracts over the interpretation of a provision in the collective bargaining agreement entered into last June concerning a change in retirement benefits.

3. Article III, Section 2, of the Constitution sets forth certain duties and responsibilities for the members of the Organization. Subsection 2(b) designates the Organization as the exclusive bargaining representative of every member for resolution of grievances, difficulties or disputes, as well as for terms and conditions of employment. In fact, the Organization does negotiate disputes and grievances for its retired members. It represents retired members in disputes with former employers on a variety of subjects. It does more. It represents the surviving members of families of deceased retired members with respect to Medicare, Social Security, claims for welfare and retirement benefits, and claims against employers.

4. Article III, Section 2, also establishes a number of other duties and responsibilities for members, as does Section 3 of the same Article. With respect to the latter, retired members often are expected to, and do, perform picket duty when so required. Disciplinary actions are sometimes brought against retired members for violations of such duties and responsibilities or for violation of other responsibilities set forth in other sections of the Constitution. When this is done, such retired members have all of the rights established under Article III, Section 4(e) and Article IX, Section 3, of the Constitution.

5. Under Section 4 of Article III, certain rights of members are set forth. As pointed out earlier, retired members are not "members in

William C. Oldaker, Esq.
May 25, 1979
Page Five

good standing" and therefore may not vote in referenda or elections. Other rights in that section are, however, extended to retired members. For example:

A. Every retired member of the Organization, as any member, has "the right to meet and assemble freely with other members ... to express at meetings his views upon candidates in any election or upon any business properly before the meeting." Section 4(b). In fact, retired members are welcome at any of the many meetings of the Organization, wherever held, at International Conventions, at meetings of the jointly-trusted Boards for Pension, Welfare, Training and other Funds and some do, in fact, frequently attend such meetings.

B. Retired members, just as any other members, have the rights set forth in Section 4(d) to institute any action or proceeding even against the Organization or its officers without retaliation.

C. As pointed out above, retired members as well as any other members have the rights under Section 4(e) that are similar to the rights preserved under Article IX, Section 3.

D. Every retired member of the Organization, just as any other member, is given a copy of the Collective Bargaining Agreement in effect between the Organization and employers, as required under Section 4(f).

E. Every retired member of the Organization, as well as active members in good standing, receives the official organ (newspaper) of the Organization and may publish and circulate to other members petitions, leaflets, or other written material.

F. Every retired member of the Organization has the same access to publication in the official newspaper of the Organization letters to the editor, columns or articles, as provided in Section 4(h)(6).

In short, the retired members of the Organization have virtually every right (and responsibility) of active members in good standing except for the right to vote or run for office. They have always been considered by the Organization and are now considered by the Organization members in every sense of that word except as just noted. In this connection, I wish to call attention to the membership structure of the Organization as set forth in Article III, Section 1(h), which establishes the structure of

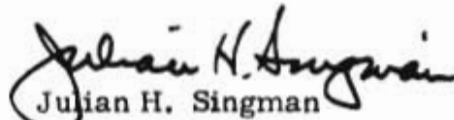
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William C. Oldaker, Esq.
May 25, 1979
Page Six

membership groups in this Organization, a structure somewhat different and original as compared to most other labor organizations. This provision, because of the peculiar needs of this Organization, creates various categories of members. Retired members are considered by the Organization to be a special membership group under that provision, although they are not (for a number of reasons) specifically set forth by name in that Subsection. Moreover, as will be plain from Article V, Section 3, members of one membership group are not eligible to vote for the officers of another membership group, just as "retired members," for example, may not vote for the officers of any of the other membership groups.

I hope you will find this material responsive to your question and helpful in understanding the position of the Organization and its PCF. If you have any further question about this matter, however, please don't hesitate to let me know.

Sincerely yours,



Julian H. Singman
Washington Counsel

International Organization of Masters,
Mates and Pilots

Enclosures
JHS:mco

**CONSTITUTION
OF THE
INTERNATIONAL ORGANIZATION
OF
MASTERS, MATES AND PILOTS**

OCTOBER 14, 1977



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

MEMORANDUM TO CHARLES STEELE
FROM: MARJORIE W. EMMONS *MW*
DATE: MAY 17, 1979
SUBJECT: MUR 773 - Interim Investigative Report
dated 5-16-79; Received in
OCS 5-15-79, 2:16

The above-named document was circulated on a 24
hour no-objection basis at 9:00, May 16, 1979.

The Commission Secretary's Office has received
no objections to the Interim Investigative Report as of
9:15 this date.

81040253854

May 15, 1979

MEMORANDUM TO: Marge Emmons
FROM: Elissa T. Garr
SUBJECT: MUR 773

Please have the attached Interim Invest Report
on MUR 773 distributed to the Commission.

Thank you.

81040253855

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

In the Matter of)
)
Masters, Mates & Pilots)
Pensioners Action Fund,)
et al)

MAY 15 P 2: 16


INTERIM INVESTIGATIVE REPORT

On March 8, 1979, the Commission found reason to believe the International Organization of Masters, Mates & Pilots (IOMMP) and its political action arm, the Masters, Mates & Pilots Political Contribution Fund (PCF) may have violated 2 U.S.C. § 441b(b) (4) (A) (ii) by soliciting contributions to the PCF from pensioners who may not be members of the IOMMP. The Commission also found reason to believe the IOMMP and PCF may have violated 11 CFR 114.5(a) (2) by not informing those solicited that they could contribute more or less than the amount stated in the solicitation. Both the IOMMP and the PCF were notified of these findings.

Mr. Julian Singman, counsel for the IOMMP and PCF, has submitted some materials pertaining to the Commission's finding concerning 11 CFR 114.5(a) (2). Mr. Singman further informed this Office that he will submit a legal memorandum in response to the Commission's findings against his clients by May 21, 1979. This response will also include materials requested by the General Counsel's Office in order to complete the investigation in this matter.

Date

5/14/79


William C. Oldaker
General Counsel

810040053856



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

May 10, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Julian H. Singman, Esquire
Landis, Cohen, Singman and Rauh
1019 19th Street, N.W.
Suite 500
Washington, D.C. 20036

Re: MUR 773

Dear Mr. Singman:

The Office of General Counsel is in receipt of your letter requesting an extension until May 20, 1979, in order to prepare a legal memorandum on behalf of the International Organization of Masters, Mates & Pilots (IOMMP) and the Masters, Mates & Pilots Political Contribution Fund (PCF) in response to the Commission's findings of reason to believe the IOMMP and the PCF violated 2 U.S.C. § 441b(b)(4)(A)(ii). This extension has been granted. Therefore, we look forward to the receipt of your legal memorandum, along with the materials this Office requested in the March 13, 1979, letter of notification to the IOMMP of the Commission's initial findings. We will expect these materials on or before May 21, 1979.

Sincerely,

William C. Oldaker
General Counsel



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1. The following service is requested (check one)
☒ Show to whom and date delivered
☐ Show to whom, date, and address of delivery
☐ RETURNED DELIVERY
☐ Show to whom and date delivered
☐ RETURNED DELIVERY
☐ Show to whom, date, and address of delivery \$
(Consult Postmaster for fees)

ARTICLE ADDRESSED TO
Julian H. Sengman

3. ARTICLE DESCRIPTION
REGISTERED NO. CERTIFIED NO. INSURED NO.
745251

(Always obtain signature of addressee or agent)

I have received the article described above
SIGNATURE ☒ Addressee ☐ Authorized agent
Julian H. Sengman

4. DATE OF DELIVERY POSTMARK
1979

5. ADDRESS (Indicate only if requested)

6. UNABLE TO DELIVER BECAUSE CLERK'S INITIALS

GC#
9979

LAW OFFICES
LANDIS, COHEN, SINGMAN AND RAUH
1019 NINETEENTH STREET, N.W., SUITE 500
WASHINGTON, D.C. 20036
(202) 785-2020

JAMES M. LANDIS (1899-1964)
WALLACE M. COHEN *
JULIAN H. SINGMAN
B. MICHAEL RAUH
ANDREW D. BALL *
MARTIN SHULMAN *
JAMES E. CARR
MICHAEL CAMPILONGO

* NOT ADMITTED IN VIRGINIA

CABLE ADDRESS
LACOS WASHINGTON, D.C.

HARRY FRIEDMAN
COUNSEL

VIRGINIA OFFICE
10100 MAIN STREET
FAIRFAX, VIRGINIA 22031
(703) 591-0100

April 25, 1979

William C. Oldaker, General Counsel
Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20463

Re: MUR 773 (78)

90217

Dear Mr. Oldaker:

The undersigned is Washington Counsel to the International Organization of Masters, Mates and Pilots and its Political Contribution Fund, and I am responding herewith to your letters of March 13, 1979 addressed to Mr. Frank T. Scavo, former President of the Organization, and Mr. Harry Seidman, Treasurer of the Political Contribution Fund, as well as to intervening telephone conversations with Ms. Marsha Gentner of your office.

With respect to your question concerning possible violations by the Organization and its Fund of 11 C.F.R. 114.5(a)(2), we wish to submit the following explanation:

Although we have concluded that the printed forms which are used by the Fund and the Organization in connection with voluntary political contributions to the Fund may not sufficiently reflect what that regulation requires, in fact, in all solicitations, both to active members and retired members, it is made clear to them that contributions in any amount (or none) are entirely voluntary and that the amount, if any, is entirely up to the contributor. It is also made clear that there will be no reprisal or discrimination by the Union in any way with respect to any member as a result of his refusal to contribute in any specified amount or at all. In our investigation we have found no violation of this practice by any contribution solicitor and have received no complaint concerning any such alleged deviation from our standard practice. Nonetheless we believe that the forms used do not fully reflect this practice and, accordingly,

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William C. Oldaker, General Counsel
April 25, 1979
Page Two

the Organization and its Fund have determined to change all the forms being used in the following manner so that there can be no doubt:

First, with respect to the receipt form (a copy of which is enclosed), we will be adding a new box which says, "Other Amount (Fill in Amount):".

Second, with respect to the Pension Deduction Authorization Card (copy enclosed), we will be adding a similar box and will also be adding the following language at the end of the first paragraph: "The amounts suggested are only suggestions, and you may contribute as much or as little as you wish. You will be neither favored nor disadvantaged by the MM&P by reason of the amount you contribute nor by your decision not to contribute."

Third, the Vacation Plan Deduction Authorization Card (copy enclosed) will have the same amendments as those to be made to the Pension Deduction Authorization Card.

With respect to the question concerning the solicitation of contributions to the Fund "from those who are not members of the International Organization of Masters, Mates & Pilots," it is our position that this in fact has not been done. We have solicited only active members and retired members. We wish, however, some additional time to prepare a legal memorandum, as well as a further factual explanation with respect to this question and ask that we be given until May 20 to submit such a memorandum.

Sincerely yours,

Julian H. Singman
mco

Julian H. Singman
Washington Counsel
International Organization of Masters,
Mates and Pilots

Enclosures
JHS:mco

81010253860

Date

EDP Code

PCF

501

MM&P POLITICAL CONTRIBUTION FUND

39 BROADWAY, NEW YORK, N. Y. 10006

\$5.00	\$10.00	\$15.00	\$20.00	\$25.00	\$50.00	\$100.00
--------	---------	---------	---------	---------	---------	----------

Please (✓) Appropriate Box

RECEIPT IS HEREBY ACKNOWLEDGED FROM

NAME

ADDRESS

CITY

STATE

ZIP

SOCIAL SECURITY NUMBER

OF THE SUM OF \$

AMOUNT CHECKED (✓) ABOVE

VOLUNTARILY CONTRIBUTED FOR POLITICAL PURPOSES TO MM&P POLITICAL CONTRIBUTION FUND. NO PHYSICAL FORCE, JOB DISCRIMINATION, FINANCIAL REPRISALS, OR THREAT THERE-OF HAS BEEN USED IN ANY WAY TO SECURE THIS CONTRIBUTION. THE CONTRIBUTOR HAS BEEN ADVISED OF HIS RIGHT TO REFUSE TO SO CONTRIBUTE WITHOUT ANY REPRISAL AND THIS CONTRIBUTION IS ENTIRELY VOLUNTARY.

AUTHORIZED COLLECTOR

MEMBER'S COPY

CITY

POSTED BY

E-25 C-366

M.M.&P. POLITICAL CONTRIBUTION FUND

Pension Deduction Authorization Card

Soc. Sec. No.

(Print Name)

I hereby authorize the Administrator of the M.M.&P. Pension Plan to deduct from each of my monthly pension checks the sum of

☐ 2%☐ \$100☐ \$50

(Please check one box)

☐ \$25☐ \$15☐ \$10

and forward such amounts to the I.O.M.M.&P. Political Contribution Fund. I understand that this is a voluntary contribution and I make it on that basis, with the further understanding that I can revoke this authorization at any time by notifying you of this revocation in writing.

I further understand that the money in the Political Contribution Fund will be used for political contributions, for educational campaigns, to defray expenses, and such associated expenditures to benefit the Organization, its members, present, future and retired, and the maritime industry as the Trustees may determine.

Date

Pensioner's Signature

ATOR

M.M.&P. POLITICAL CONTRIBUTION FUND

I hereby authorize the Administrator of the M.M. & P. Vacation Plan to deduct from my current vacation check the sum of:

- | | | |
|---|--------------------------------|-------------------------------|
| <input type="checkbox"/> 25¢ For each day of
paid vacation benefit | <input type="checkbox"/> \$100 | <input type="checkbox"/> \$50 |
| <input type="checkbox"/> \$25 | <input type="checkbox"/> \$15 | <input type="checkbox"/> \$10 |
- (Please check one box)

and forward such amounts to the I.O.M.M. & P. Political Contribution Fund. I understand that this is a voluntary contribution and I make it on that basis.

I further understand that the money in the Political Contribution Fund will be used for political contributions, for educational campaigns, to defray expenses, and such associated expenditures to benefit the Organization, its members, present, future and retired, and the maritime industry as the Trustees may determine.

Political Contribution
Receipt Number _____
Port of _____

Date

Member's Signature

81040253862



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

MEMORANDUM TO CHARLES STEELE
FROM: MARJORIE W. EMMONS *mue*
DATE: APRIL 17, 1979
SUBJECT: MUR 773 (78) - Interim Investigative
Report dated 4-13-79; Received in
OCS 4-16-79, 10:12

The above-named document was circulated on a 24
hour no-objection basis at 3:30, April 16, 1979.

The Commission Secretary's Office has received
no objections to the Interim Investigative Report as of
4:00 this date.

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April 10 1979

MEMORANDUM TO: Marge Emmons
FROM: Elissa T. Carr
SUBJECT: MUR 773

Please have the attached Interim Invest Report
on MUR 773 distributed to the Commission.

Thankyou.

81040253064

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
OFFICE OF THE
CLERK OF THE
COMMISSION

In the Matter of
Masters, Mates & Pilots
Pensioners Action Fund,
et al

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79 APR 16 A10: 12
MUR 773 (78)

INTERIM INVESTIGATIVE REPORT

On March 8, 1979, the Commission found reason to believe the International Organization of Masters, Mates and Pilots (IOMMP) and its political action arm, the Masters, Mates and Pilots Political Contribution Fund (PCF) may have violated 2 U.S.C. § 441b(b)(4)(A)(ii) by soliciting contributions to the PCF from pensioners who may not be members of the IOMMP. The Commission also found reason to believe the IOMMP and PCF may have violated 11 CFR 114.5(a)(2) by not informing those solicited that they could contribute more or less than the amount stated in the solicitation. Letters of notification of these findings were sent to the IOMMP and PCF.

The counsel for the IOMMP called this Office and confirmed by letter that the PCF attorney, Mr. Julian Singman, was more aware of the facts in this matter and would represent both the IOMMP and PCF. Mr. Singman has contacted a staff member and is sending the information the office requested the IOMMP send, as well as some other information he believes is relevant to the investigation in this matter. Mr. Singman also plans to submit a legal

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response to the Commission's findings.

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The Commission also determined on March 8, 1979, that the auditors should inform the IOMMP, the PCF, and the Masters, Mates & Pilots Pensioners Action Fund (PAF) that they may be deemed affiliated for contribution limitation purposes, and to make the IOMMP, PCF, and PAF aware of the advisory opinion procedures should they desire an official determination by the Commission of the affiliation question. An Audit Division staff member relayed this information to the treasurer of the PCF, the secretary-treasurer of the IOMMP, and the PAF attorney by phone conversations. The PAF attorney subsequently contacted a staff attorney, and apparently determined not to submit an advisory opinion request, because he believes the PAF will not be making contributions to federal candidates in the future.

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The Commission also determined that the auditors assigned to this audit should request the administrator of the Masters, Mates & Pilots Pension Fund to put all funds authorized as political contributions that are held in the Pension Fund operating account into a separate, segregated account. An Audit Division staff member contacted the Pension Fund administrator to relay this request. The administrator told the auditor that these funds have in fact been segregated in a

separate account since January 1979. This has been confirmed by the attorney for PAF which is currently involved in a suit against the Pension Fund administrator concerning the final disposition of these funds.

4/13/79
Date


William C. Oldaker
General Counsel

81040253867

LAW OFFICES

LANDIS, COHEN, SINGMAN AND RAUH
1019 NINETEENTH STREET, N.W., SUITE 500
WASHINGTON, D.C. 20036



William C. Oldaker, General Counsel
Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20463



International Organization of

Masters, Mates & Pilots

39 Broadway, New York, N.Y. 10006/(212) 425-3860/Cable: BRIDGEDECK/No. 12-5856

EUGENE L. GARTLAND, ESQ.
General Counsel

BURTON M. EPSTEIN, ESQ.
Counsel

(212) 483-0272

RECEIVED
FEDERAL ELECTION
COMMISSION

79 MAR 25 PM 12.55

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March 19, 1979

Federal Election Commission
1325 "K" Street, N. W.
Washington, D. C. 20463

Attention: Marsha Gentner, Esq.

Re: MUR 773 (78)

Dear Ms. Gentner:

Reference is made to the letter from Charles N. Steele, Associate General Counsel, dated March 13, 1979 to Mr. Harry Seidman, Masters, Mates and Pilots Political Contribution Fund, Suite 500, 1019 19th Street, N. W., Washington, D. C. 20036, with respect to the above-captioned matter, and our telephone conversation of March 15, 1979 in connection therewith.

As I advised you in that call, our Washington counsel, Julian H. Singman, Esq. of the firm of Landis, Cohen, Singman & Rauh, 1019 Nineteenth Street, N. W., Washington, D. C. 20036 - telephone no. [202] 785-2020, who is most familiar with the Political Contribution Fund, was out of the country, and would not be available in his office until about March 22, 1979, to look into the matter described in the afore-mentioned letter. Further, I requested your forbearance on this matter until Mr. Singman's availability at which time he would be in further touch with you. In our conversation, you indicated that this letter would be considered a "response" within the ten days mentioned in the March 13, 1979 letter, and consequently you would defer proceedings until you had heard from Mr. Singman on this matter.

Federal Election Commission
Re: MUR 773 (78)

Page 2
March 19, 1979

I thank you for your courtesy and forbearance, and anticipate that Mr. Singman will be in touch with you by the end of this week.

Very truly yours,


BURTON M. EPSTEIN

BME/pp

cc: Julian H. Singman, Esq.
cc: Mr. Harry Seidman

cc: Captain Robert J. Lowen
cc: Captain Allen C. Scott
cc: Captain Lloyd M. Martin

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International Organization of
Masters, Mates & Pilots

INTERNATIONAL MARINE DIVISION OF THE INTERNATIONAL LONGSHOREMEN'S ASSOCIATION / AFL-CIO

39 Broadway, New York, N. Y. 10006



FEDERAL ELECTION COMMISSION
1325 "K" Street, N. W.
Washington, D. C. 20463

ATTN: Marsha Gentner, Esq.

FEDERAL ELECTION
COMMISSION

MAR 23 PM 12:35

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FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

March 13, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Harry Seidman
Masters, Mates & Pilots
Political Contribution Fund
Suite 500
1019 19th Street, N.W.
Washington, D.C. 20036

Re: MUR 773 (78)

Dear Mr. Seidman:

The Federal Election Commission has found reason to believe that the Masters, Mates & Pilots Political Contribution Fund ("the PCF") has violated the Federal Election Campaign Act of 1971, as amended. Specifically, the Commission has found reason to believe the PCF may have violated 2 U.S.C. § 441b(b)(4)(A)(ii) by soliciting contributions to the PCF from those who are not members of the International Organization of Masters, Mates & Pilots. 2 U.S.C. § 441b(b)(4)(A)(ii) prohibits the separate segregated fund established by a labor organization from soliciting contributions from those who are not members of the labor organization. The Commission has also found reason to believe the PCF violated 11 CFR 114.5(a)(2) by soliciting a 2% contribution without informing those solicited of their opportunity to contribute more or less than that amount. 11 CFR 114.5(a)(2) requires a solicitation for contributions to a segregated fund which has a guideline for the amount of the contribution to the fund to inform the person solicited that the guideline is just a suggested one and that more or less may be contributed.

Under the Act, you have an opportunity to demonstrate why no action should be taken against you. 2 U.S.C. § 437g(a)(4). Please submit any factual or legal materials you believe are relevant to the Commission's consideration of this matter. Where appropriate, statements or explanations should be made under oath.



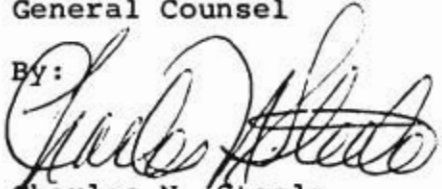
The Commission is under a duty to investigate this matter expeditiously. Therefore, your response should be submitted within ten days after your receipt of this notification. Failure to do so may require the Commission to act on the information available to it. If you intend to be represented by counsel in this matter, please have such counsel notify us in writing.

This letter will remain confidential in accordance with 2 U.S.C. § 437g(a)(3)(B) unless you notify the Commission in writing that you wish the investigation to be made public. If you have any questions, please contact Ms. Marsha Gentner, the attorney assigned to this matter, at (202) 523-4073.

Sincerely,

William C. Oldaker
General Counsel

By:


Charles N. Steele
Associate General Counsel

PS Form 3811, Apr 1977

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

MC- M723

● SENDER Complete items 1, 2, and 3
Add your address in the RETURN TO space on reverse

1. The following service is requested (check one).
☐ Show to whom and date delivered.
☒ Show to whom, date, and address of delivery.
☐ RESTRICTED DELIVERY
Show to whom and date delivered.
☐ RESTRICTED DELIVERY
Show to whom, date, and address of delivery. \$
(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
Mr. Harry Seidman
Masters Makes Political Contributions

3. ARTICLE DESCRIPTION:
REGISTERED NO. CERTIFIED NO. INSURED NO.
438277

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent
S. Robinson

4. DATE OF DELIVERY POSTMARK

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Harry Seidman
Masters, Mates & Pilots
Political Contribution Fund
Suite 500
1019 19th Street, N.W.
Washington, D.C. 20036

Re: MUR 773 (78)

Dear Mr. Seidman:

The Federal Election Commission has found reason to believe that the Masters, Mates & Pilots Political Contribution Fund ("the PCF") has violated the Federal Election Campaign Act of 1971, as amended. Specifically, the Commission has found reason to believe the PCF may have violated 2 U.S.C. § 441b(b)(4)(A)(ii) by soliciting contributions to the PCF from those who are not members of the International Organization of Masters, Mates & Pilots. 2 U.S.C. § 441b(b)(4)(A)(ii) prohibits the separate segregated fund established by a labor organization from soliciting contributions from those who are not members of the labor organization. The Commission has also found reason to believe the PCF violated 11 CFR 114.5(a)(2) by soliciting a 2% contribution without informing those solicited of their opportunity to contribute more or less than that amount. 11 CFR 114.5(a)(3) requires a solicitation for contributions to a segregated fund which has a guideline for the amount of the contribution to the fund to inform the person solicited that the guideline is just a suggested one and that more or less may be contributed.

Under the Act, you have an opportunity to demonstrate why no action should be taken against you. 2 U.S.C. § 437g(a)(4). Please submit any factual or legal materials you believe are relevant to the Commission's consideration of this matter. Where appropriate, statements or explanations should be made under oath.

The Commission is under a duty to investigate this matter expeditiously. Therefore, your response should be submitted within ten days after your receipt of this notification. Failure to do so may require the Commission to act on the information available to it. If you intend to be represented by counsel in this matter, please have such counsel notify us in writing.

This letter will remain confidential in accordance with 2 U.S.C. § 437g(a)(3)(B) unless you notify the Commission in writing that you wish the investigation to be made public. If you have any questions, please contact Ms. Marsha Gentner, the attorney assigned to this matter, at (202) 523-4073.

Sincerely,

William C. Oldaker
General Counsel

By:

Charles N. Steele
Associate General Counsel

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3/12/79



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20463

March 13, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Frank T. Scavo
President
International Organization of
Masters, Mates & Pilots
39 Broadway
New York, New York 10006

Re: MUR 773 (78)

Dear Mr. Scavo:

The Federal Election Commission has found reason to believe that the International Organization of Masters, Mates & Pilots ("the IOMMP") has violated the Federal Election Campaign Act of 1971, as amended. Specifically, the Commission has found reason to believe the IOMMP may have violated 2 U.S.C. § 441b(b)(4)(A)(ii) by soliciting contributions to the Masters, Mates & Pilots Political Contribution Fund ("the PCF") from those who were not members of the IOMMP. 2 U.S.C. § 441(b)(4)(A)(ii) prohibits the separate fund established by a labor organization from soliciting contributions from those who are not members of the labor organization. The Commission has also found reason to believe the IOMMP violated 11 CFR 114.5(a)(2) by soliciting contributions of 2% to the PCF, without informing those solicited of their opportunity to contribute more or less than that amount. 11 CFR 114.5(a)(2) requires a solicitation for contributions to a segregated fund which has a guideline for the amount of the contribution to the fund to inform the person solicited that the guideline is just a suggested one and that more or less may be contributed.

Under the Act, you have an opportunity to demonstrate why no action should be taken against you. 2 U.S.C. § 437g(a)(4). Please submit any factual or legal materials you believe are relevant to the Commission's consideration of



this matter. Where appropriate, statements or explanations should be made under oath. In addition, please submit a copy of the IOMMP constitution and the by-laws, and any other document setting out the requirements for membership in the IOMMP.

The Commission is under a duty to investigate this matter expeditiously. Therefore, your response should be submitted within ten days after your receipt of this notification. Failure to do so may require the Commission to act on the information available to it. If you intend to be represented by counsel in this matter, please have such counsel notify us in writing.

This letter will remain confidential in accordance with 2 U.S.C. § 437g(a)(3)(B) unless you notify the Commission in writing that you wish the investigation to be made public. If you have any questions, please contact Ms. Marsha Gentner, the attorney assigned to this matter, at (202) 523-4073.

Sincerely,

William C. Oldaker
General Counsel

By:



Charles N. Steele
Associate General Counsel

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CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Frank T. Scavo
President
International Organization of
Masters, Mates & Pilots
39 Broadway
New York, New York 10006

Re: NUR 773 (78)

Dear Mr. Scavo:

The Federal Election Commission has found reason to believe that the International Organization of Masters, Mates & Pilots ("the IOMMP") has violated the Federal Election Campaign Act of 1971, as amended. Specifically, the Commission has found reason to believe the IOMMP may have violated 2 U.S.C. § 441b(b)(4)(A)(ii) by soliciting contributions to the Masters, Mates & Pilots Political Contribution Fund ("the PCF") from those who were not members of the IOMMP. 2 U.S.C. § 441(b)(4)(A)(ii) prohibits the separate fund established by a labor organization from soliciting contributions from those who are not members of the labor organization. The Commission has also found reason to believe the IOMMP violated 11 CFR 114.5(a)(2) by soliciting contributions of 20 to the PCF, without informing those solicited of their opportunity to contribute more or less than that amount. 11 CFR 114.5(a)(2) requires a solicitation for contributions to a segregated fund which has a guideline for the amount of the contribution to the fund to inform the person solicited that the guideline is just a suggested one and that more or less may be contributed.

Under the Act, you have an opportunity to demonstrate why no action should be taken against you. 2 U.S.C. § 437g(a)(4). Please submit any factual or legal materials you believe are relevant to the Commission's consideration of

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this matter. Where appropriate, statements or explanations should be made under oath. In addition, please submit a copy of the IOSEP constitution and the by-laws, and any other document setting out the requirements for membership in the IOSEP.

The Commission is under a duty to investigate this matter expeditiously. Therefore, your response should be submitted within ten days after your receipt of this notification. Failure to do so may require the Commission to act on the information available to it. If you intend to be represented by counsel in this matter, please have such counsel notify us in writing.

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This letter will remain confidential in accordance with 2 U.S.C. § 437g(a)(3)(B) unless you notify the Commission in writing that you wish the investigation to be made public. If you have any questions, please contact Ms. Marsha Gentner, the attorney assigned to this matter, at (202) 523-4073.

Sincerely,

William C. Oldaker
General Counsel

By:

Charles N. Steele
Associate General Counsel

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3/12/79

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Masters, Mates, & Pilots)
Pensioners Action Fund)

MUR 773 (78)

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, certify that on March 8, 1979, the Commission determined by a vote of 5-1 to adopt the recommendation of the General Counsel to take the following actions in MUR 773 (78):

1. Have the auditors assigned to this audit inform the PAF, PCF and IOMMP that the PAF and PCF may be deemed affiliated for purposes of the limitations in 2 U.S.C. §441a(a)(2)(A), and suggest that an advisory opinion request be submitted on the question of their affiliation.
2. Find reason to believe that IOMMP and the PCF apparently violated 2 U.S.C. §441b(b)(4)(A)(ii) by soliciting contributions to the PCF from non-IOMMP members.
3. Find reason to believe the IOMMP and the PCF apparently violated 11 CFR 114.5(a)(2) by not informing those solicited that they could contribute more or less than the percentage stated in the solicitation.
4. Have the auditors assigned to this audit request the administrator of the Masters, Mates, and Pilots Pension Fund to put all funds authorized as political contributions that are currently being held in the Pension Fund operating account into a separate, segregated account; and to take no action concerning commingling of these funds prior to that request.
5. Send the letters attached to the General Counsel's Report signed March 1, 1979.

Commissioners Friedersdorf, Harris, McGarry, Thomson, and Tiernan voted affirmatively to take the above actions. Commissioner Aikens dissented.

Attest:

3/15/79

Date
of corrected certification

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Masters, Mates & Pilots)
Pensioners Action Fund)

MUR 773 (78)

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on March 8, 1979, the Commission determined by a vote of 6-0 to adopt the following recommendations, as set forth in the General Counsel's Report dated March 1, 1979, regarding the above-captioned matter:

1. Have the auditors assigned to this audit inform the PAF, PCF and IOMMP that the PAF and PCF may be deemed affiliated for purposes of the limitations in 2 U.S.C. §441a(a)(2)(A), and suggest that an advisory opinion request be submitted on the question of their affiliation.
2. Find reason to believe the IOMMP and the PCF apparently violated 2 U.S.C. §441b(b)(4)(A)(ii) by soliciting contributions to the PCF from non-IOMMP members.
3. Find reason to believe the IOMMP and the PCF apparently violated 11 CFR 114.5(a)(2) by not informing those solicited that they could contribute more or less than the percentage stated in the solicitation.
4. Request the administrator of the Masters, Mates, and Pilots Pension Fund to put all funds authorized as political contributions that are currently being held in the Pension

Continued

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MUR 773 (78)
General Counsel's Report
Dated March 1, 1979
CERTIFICATION

Page 2

Fund operating account into a separate, segregated account; and to take no action concerning commingling of these funds prior to that request.

5. Send the letters attached to the above-named report.

Attest:

3/9/79
Date

Marjorie W. Emons
Marjorie W. Emons
Secretary to the Commission

Received in Office of Commission Secretary: 3-2-79, 11:03
Circulated on 48 hour vote basis: 3-2-79, 4:30
Objection filed 3-6-79, 4:36
Placed on agenda for Executive Session of March 8, 1979

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FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE
FROM: MARJORIE W. EMMONS *mwe*
DATE: MARCH 7, 1979
SUBJECT: OBJECTION - MUR 773 - General Counsel's
Report dated 3-1-79; Received
in OCS 3-2-79, 11:03

The above-named document was circulated on a 48
hour vote basis at 4:30, March 2, 1979.

Commissioner Aikens submitted an objection at 4:36,
March 6, 1979, thereby placing MUR 773 on the Amended
Agenda for March 8, 1979.

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March 2, 1979

MEMORANDUM TO: Marge Emmons
FROM: Elissa T. Carr
SUBJECT: HUR 773

Please have the attached General Counsel's Report on HUR 773 distributed to the Commission on a 48 hour tally basis.

Thank you.

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BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

79 MAR 2 AM: 03

In the Matter of)
)
Masters, Mates & Pilots) MUR 773 (78)
Pensioners Action Fund)

GENERAL COUNSEL'S REPORT

Background and Evidence

This matter stems from an audit for cause of the Masters, Mates & Pilots Pensioners Action Fund ("the PAF") that is currently being conducted by the audit division.

Starting in 1970, the International Organization of Masters, Mates and Pilots ("the IOMMP"), a labor union, began to solicit contributions to a political fund from pensioners who had been members of the Offshore Division of the union before retiring. The solicitation took the form of a request to the pensioners to authorize the trustees of the IOMMP Pension Fund to withhold a 3% deduction from their monthly pension benefit checks, to be transferred to a political fund. In April of 1973, the PAF registered with the Clerk of the House, disclosing the IOMMP as its connected organization.

In early 1976, a dispute arose within the IOMMP which resulted in the election of new officers of the union. The new officers decided to transform the PAF, which was established by the former union officers, into a successor political fund which would solicit contributions from actively employed members

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and pensioners of all divisions of the IOMMP as well as retired pensioners of the Offshore Division. This new political fund registered with the Commission on November 19, 1976, as the Masters, Mates and Pilots Political Contribution Fund ("the PCF") and listed the IOMMP as its connected organization. Pensioners were solicited by the IOMMP to begin or switch their authorization to a 2% deduction from pension benefit checks to be transferred to the PCF. Both the PCF and the PAF have continued to report to the Commission.

Beginning in February 1976, purportedly upon instructions from the IOMMP officers, the administrator of the IOMMP Pension Plan discontinued the transfer of the authorized 3% monthly deductions to the PAF. These funds have been accumulating in a Pension Fund account and as of June 30, 1978, totalled \$159,265.39. In April of 1977, the PAF filed a suit against the Pension Fund and its administrator in order to secure release of all PAF authorized deduction funds. That suit, filed in the United States District Court in the Southern District of New York, is premised on alleged violations of the Federal Pension Act, ERISA. That action remains pending. It is that lawsuit and the circumstances that precipitated it, that present certain policy questions upon which the auditors sought advice from this Office.

Preliminary Legal Analysis

A. Affiliation Issue

The auditors first sought advice on whether the PAF and PCF are to be considered as affiliated political action committees ("PACs"). 1/ It is the opinion of the Office of General Counsel that the PAF and PCF are affiliated by virtue of their common connected organization, the IOMMP. 2 U.S.C. § 441a(a)(5); 11 CFR 110.3.

Under 11 CFR 100.14(c)(2), all committees which are established, financed, maintained, or controlled by the same labor organization are affiliated. Both the PAF and the PCF were "established" by the IOMMP. The PAF was set up by the then President of the IOMMP, as was the PCF. The solicitations of contributions to the PAF, and subsequently to the PCF, were made under the union letterhead and signed by the President of the IOMMP. IOMMP access to union employees was taken advantage of in these solicitations, as well. Also, both PACs list the IOMMP as their connected organization on their statements of organization.

But while the PCF does not deny that it is connected to the IOMMP, the PAF now claims to be an independent Masters,

1/ If the two PACs are not deemed to be affiliated, then any eventual transfer to the PCF of PAF funds withheld by the Pension Fund in excess of \$5,000--a strong possibility should the PAF lose its law suit--would be in violation of 2 U.S.C. § 441a(a)(2)(C). On the other hand, if the two PACs are affiliated, contributions to federal candidates by one would be considered contributions by the other also, for purposes of the limitations in 2 U.S.C. § 441a(a)(2)(A).

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Mates and Pilots pensioners' organization, completely separate from the IOMMP. 2/ The PAF, however, never amended its Statement of Organization to reflect that it was no longer connected to the IOMMP. Rather, the PAF relies on the fact that none of the present officers of the committee are officers of the IOMMP or PCF (although they are past officers of the union) as evidence that the PAF's assertion of independence is well founded. Common officers, though, is not a determinative factor in deciding whether the organizations are connected or affiliated.

The critical factors of establishment of the political committee by the union and the fact that the first solicitations for contributions were made by the IOMMP, See 11 CFR 100.15; AO 77-2, demonstrate that the PAF is connected to the IOMMP. 3/ Therefore, the PAF and PCF should be deemed to be affiliated by virtue of their common connected organization, the IOMMP. 11 CFR 100.14(c)(2); 100.15. Thus, under

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- 2/ These claims are being made in connection with the pending lawsuit in the Southern District of New York, involving alleged ERISA violation, no such claim has been made in any formal manner to the Commission.
- 3/ There is really no reason to seriously question whether the PAF is connected to the IOMMP since the PAF disclosed the IOMMP as its connected organization when it registered with the Commission, and has not made any contrary assertions to the Commission nor amended the Statement of Organization since that time.

2 U.S.C. § 441a(a)(5), any contribution by the PAF should be considered to be a contribution by the PCF, and vice versa, for purposes of contribution limitations.

However, no factual situation has, as yet, taken place that would call for a Commission determination of whether these political committees are affiliated. But a potential violation, in the form of an excessive contribution, seems imminent should the PAF win its lawsuit and receive the \$159,265.39 in funds. See n.1 supra. In order to avoid an unwitting violation of the Act, the Office of General Counsel recommends that the auditors advise the parties involved to seek an advisory opinion from the Commission as to whether the PCF and PAF are affiliated, and whether they will be held to one contribution limitation for the purposes of 2 U.S.C. § 441a(a)(2)(A).

B. Membership

Because of the conclusion reached in Part A, that the PAF has not established that it is no longer connected to the IOMMP, nor amended its Statement of Organization to that effect, and that the PCF is still, by its own admission, connected to the IOMMP, a possibility is raised that 2 U.S.C. § 441b(b)(4)(A)(ii) is being violated by the solicitation of pensioners for contributions to the PAF and PCF. 2 U.S.C. § 441b(b)(4)(A)(ii) states that only members of the union may be solicited for contributions to the union's political action arm, thus raising the issue of whether Masters, Mates

and Pilots pensioners are members of the IOMMP. It should be noted, however, that the PAF should not at this time be the subject of a finding of a violation of 2 U.S.C. § 441b(b) (4) (A) (ii) for soliciting non-union members by soliciting pensioners. 2 U.S.C. § 441b(b) (4) (A) (ii) was not in effect prior to June, 1976. The PAF stopped receiving funds deducted from pensioners' checks in February of 1976. Thus, to find reason to believe the PAF violated 2 U.S.C. § 441b(b) (4) (A) (ii) would be to cite it for an inchoate violation, since the funds that are the subject of the questionable solicitation have not yet been (and might never be) received by the PAF.

The PCF, on the other hand, continues to solicit and receive 2% pension deductions from Masters, Mates and Pilots pensioners, as well as actively employed members of the IOMMP. Thus, if pensioners are not considered to be members of the IOMMP for purposes of solicitation, the PCF could be in violation of 2 U.S.C. § 441b(b) (4) (A) (ii) since it has continued to solicit funds from pensioners after the effective date of that statutory provision.

11 CFR 114.1(e) defines "member" of a labor organization as one who currently satisfies the requirements for membership in the local, national, or international labor organization. According to information supplied by IOMMP officers to the auditors, most of the pensioners solicited do not pay IOMMP

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dues 4/, nor can pensioners vote in IOMMP elections or be officers of the union. 5/ While it is true that the above information is only hearsay and only indicia of membership in any case, it does demonstrate that the membership status of pensioners in the IOMMP is at least questionable, and the Office of General Counsel therefore recommends that the Commission find reason to believe the IOMMP and the PCF violated 2 U.S.C. § 441b(b)(4)(A)(ii) in order to proceed with an investigation and obtain further information on this matter.

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- 4/ According to the unsubstantiated information given the auditors, some pensioners pay union dues in order to be able to do occasional jobs or "piece work".
- 5/ See Advisory Opinion 77-67, where a PAC established by a non-stock corporation was permitted to solicit "members" who had affirmatively indicated a desire to be members and who regularly paid dues or had them specifically waived.

In AO 77-17, "commodity representatives" were found not to be "members" of the Chicago Mercantile Exchange and therefore could not be solicited by the Exchange PAC under 2 U.S.C. § 441b(b)(c). Some of the factors relied upon by the Commission in making this determination included the ineligibility of the commodity representatives to become officers or directors of the Exchange, and the absence of any voting rights by the representatives as to Exchange elections or adoptions of rules.

C. Solicitation

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The authorization form used for deduction of 3% of monthly pension benefits to the PAF does not disclose to the individual solicited that more or less than 3% may be contributed and that the 3% figure is only a suggested one. This would apparently place the PAF and the IOMMP in violation of 11 CFR 114.5(a)(2). However, the effective date of this regulation, April 13, 1977, was at a time when PAF authorization forms were no longer being distributed, and after the PAF had ceased to receive pension deducted funds. The General Counsel's Office therefore recommends that the Commission take no action at this time against the PAF as to 11 CFR 114.5(a)(2), but that it direct the auditors to inform the PAF of the requirements of 11 CFR 114.5(a)(2) for any future solicitations.

The PCF has also used, and is presently using, an affirmative check-off to collect contributions. The PCF authorization is for 2%, and likewise does not inform the contributor of his option to contribute more or less. In fact, the PCF authorization form encourages a switch from the 3% deduction of the PAF, and IOMMP literature uses the lower deduction of 2% as an incentive to switch from the PAF to the PCF. The Office of General Counsel therefore recommends that the Commission find reason to believe the PCF and IOMMP apparently violated 11 CFR 114.5(a)(2) by not informing those solicited that more or less than 2% could be collected.

D. Commingling

As was previously noted, beginning in early 1976, all authorized deductions from pension benefit checks for PAF contributions were withheld by the Pension Fund administrator, apparently at the IOMMP's request, and not transferred to the PAF. Instead, these authorized contributions were, and still are, being kept in a Pension Fund account which also contains pension monies used to defray the Fund's operating expenses. Upon completion of the lawsuit involving this set of circumstances, See Background and Evidence, supra, these contributed funds will either be transferred to the PAF or the PCF. If either PAC subsequently contributes to a federal candidate, there will arise the question of whether some of the PAC money was commingled with Pension Fund general funds in violation of 2 U.S.C. § 441b(a).

The initial issue that must be resolved is whether commingling with Pension Fund monies would taint the contributed money in such a way that any subsequent contribution of these funds would be a violation of 2 U.S.C. § 441b(a). It is the opinion of the General Counsel's Office that contribution of such commingled funds to federal candidates would at least form the basis of a finding of reason to believe a violation of the Act had occurred.

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The Pension Fund is financed by contributions from the employers of IOMMP members, pursuant to a collective bargaining agreement. Some of these employers are corporations. The funds are not vested in the individual IOMMP members until eligibility under the Pension Plan is obtained. There are provisions in the Pension Plan whereby the employers/corporations may be "returned" some of the funds they have contributed. Therefore, the funds in the Pension Fund Operating Account could be said to include corporate monies, which would make any political contribution funds commingled with it ineligible for contribution to federal candidates under 2 U.S.C. § 441b(a).

In AO 77-65, a similar set of circumstances was held to have comprised an indirect corporate contribution. In that instance, an organization (not a corporation or union) wanted to transfer to its connected PAC certain funds, some of which were derived by the sale of advertising in programs and tickets to fundraisers to corporations and unions. Though the money in question no longer was that of the corporation/labor organization when commingled with the organization's other funds, it was still considered to be, at least indirectly, corporate/union funds and not permitted to be transferred to the PAC. In the present case, not only are the Pension Fund operating monies derived from corporate contributions, but may possibly still be corporate funds, since some of the money may revert back to the various employers/corporations.

At this point in time, however, even accepting the foregoing opinion, no violation of 2 U.S.C. § 441b(a) has occurred because none of the commingled funds have been transferred to either PAC and, thus, not contributed to federal candidates. But, as soon as the lawsuit involving these funds is settled, the funds will be transferred to either the PAF or PCF, probably to be spent later on federal elections.

It would seem unfair to at that point find reason to believe either PAC was in violation of 2 U.S.C. § 441b(a), since neither really wanted the funds to be "frozen" in the Pension Fund account and commingled with Pension Fund monies. The Office of General Counsel therefore recommends that the auditors advise the Pension Fund administrator to place all authorized deducted political contributions in a separate, segregated account in order to avoid any possible violation of 2 U.S.C. § 441b(a), and to ensure that the funds are segregated from all other monies before they are transferred to a political committee. The General Counsel's Office also recommends that the Commission take no action concerning the commingling of these funds prior to this advice.

Recommendations

1. Have the auditors assigned to this audit inform the PAF, PCF and IOMMP that the PAF and PCF may be deemed affiliated for purposes of the limitations in 2 U.S.C. § 441a (a) (2) (A), and suggest that an advisory opinion request be submitted on the question of their affiliation.

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2. Find reason to believe the IOMMP and the PCF apparently violated 2 U.S.C. § 441b(b)(4)(A)(ii) by soliciting contributions to the PCF from non-IOMMP members.
3. Find reason to believe the IOMMP and the PCF apparently violated 11 CFR 114.5(a)(2) by not informing those solicited that they could contribute more or less than the percentage stated in the solicitation.
4. Request the administrator of the Masters, Mates, and Pilots Pension Fund to put all funds authorized as political contributions that are currently being held in the Pension Fund operating account into a separate, segregated account; and to take no action concerning commingling of these funds prior to that request.
5. Send the attached letters.

Date

1 March 1979

William C. Oldaker
General Counsel


wco

Attachments:

Audit Referral
Letters (2)

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FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

October 20, 1978

MEMORANDUM

TO : WILLIAM OLDAKER

THROUGH : ORLANDO B. POTTER *OBP*
STAFF DIRECTOR

FROM : *RC* BOB COSTA *for* CRAIG RUSSELL *CR*

SUBJECT : MASTERS, MATES AND PILOTS PENSIONERS
ACTION FUND

During recent audit fieldwork done on the Masters, Mates and Pilots Pensioners Action Fund (PAF) we became aware of information which prompts this memo requesting guidance on certain policy questions.

Introduction

Beginning in 1970, the International Organization of Masters, Mates and Pilots (IOMMP) began soliciting voluntary contributions from its retired pensioners for a political fund. These solicitations requested the pensioners to authorize, via a reply card, the MMP Pension Fund to withhold a uniform rate of 3% from their monthly pension benefit checks for collection and transmittal to the political fund. This political fund formally established itself and registered with the U.S. House of Representatives on April 19, 1973, as the Masters, Mates and Pilots Pensioners Action Fund (PAF). The PAF statement of organization discloses the International Organization of Masters, Mates and Pilots (IOMMP) as its affiliated or connected organization and indicates its members are retired members of the IOMMP. The PAF proceeded through most of 1975 on this basis, receiving by that time approximately \$10,000 per month of voluntary 3% check off monies from IOMMP pensioners, administered and transmitted by the IOMMP pension plans. 1/

1/ Actually, the IOMMP had two (2) Pension Funds, one (1) for East and Gulf Coast pensioners based in New York, the other representing West Coast pensioners, headquartered in San Francisco.



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In late 1975 or early 1976 during union elections, a political dispute arose between factions in the union (IOMMP) leadership, resulting in the election of new IOMMP officers. As far as we are able to deduce from available information, the dispute centered around the desire of the new President of IOMMP to transform the PAF into a PAC representing both active seamen and pensioners. In contrast the former IOMMP President, responsible for forming the PAF, felt that the interests of pensioners under such a fund would not be given adequate consideration. This resulted, after the switch in IOMMP officers, in a campaign for a new political fund which was to be more broadly based in its solicitation of voluntary political contributions from active seamen/members of IOMMP, as well as pensioners. This fund registered with the Federal Election Commission on November 19, 1976, as the Masters, Mates and Pilots Political Contribution Fund (PCF), listing its connected organization as the IOMMP and indicating that "voluntary contributions are received from current and retired members of the Union."

The new IOMMP leadership instituted a uniform 2% check-off system (in contrast to PAF 3%) in an apparent attempt to persuade pensioners previously contributing to PAF to switch to PCF. The IOMMP solicited PAF pensioners to this effect, in addition to active seamen and more recently retired pensioners. The IOMMP/PCF efforts were at least partially successful and many former PAF pensioners switched their authorization over to PCF, commencing in January of 1977. The PCF has filed reports of receipts and expenditures with the Commission since that time. The PAF has also continued to file.

Apparently as a result of instructions from IOMMP officers, commencing in February of 1976 for the New York-based Pension Fund and in April for the San Francisco-based Pension Fund, all 3% monthly withholdings from PAF pensioners were retained by the Pension funds and not transmitted on to the PAF. These funds have been accumulating in accounts at both Pension funds since that time and as of June 30, 1978, the balances of PAF-withheld funds totaled \$140,360.83 and \$18,904.56 for the New York and San Francisco-based pension plans, respectively. In mid-1977, the PAF filed suit against the Pension Funds (now merged as of 6/30/78) for the release of all 3% voluntary deductions withheld from the PAF by the Pension Funds since 1976. As of the end of the initial audit fieldwork, the law suit remains pending.

A. Affiliation Issue

Within the described factual situation, the question of affiliation between the PAF and PCF arises.

As previously stated both funds have reported the IOMMP for their affiliated connected organization. In addition, to the extent that the IOMMP solicited PAF donating pensioners on behalf of the newly formed PCF, some pensioners have donated to both funds, although not at the same time, as confirmed by our partial review of PAF and PCF reports. In contrast, certain information has been made available to us which leads us to conclude that for practical purposes the PAF and PCF are not affiliated. Representatives of the New York-based Pension Fund have stated that there is no connection between the PAF and the PCF, as evidenced by the fact there are no members common to both Boards of Trustees. In addition, whereas there is an obvious connection between the PCF and present union leaders, and between present union leaders and the IOMMP Pension Fund, the PAF has claimed its independence from both the present union leadership and appears to be administratively separate from the Pension Fund which administers its check-off plan. During our audit fieldwork, as yet uncompleted, we found no evidence of transfers of funds between the PAF and the PCF.

If both PAC's are deemed affiliated by their common connected organization and overlapping membership fields (described above), then we question the propriety of our advising the committee during the completion of audit fieldwork to guard against contributions to Federal candidates, which when aggregated with contributions by PCF to the same candidates, are in excess of the joint limitation of 2 U.S.C. 441a(a)(2)(A).

On the other hand, if it is the opinion of the Office of General Counsel that the two (2) Committees are not affiliated, to what extent would an eventual termination of PAF and transmittal of surplus funds to PCF in excess of \$5,000 be seen as a violation of 2 U.S.C. 441a(a)(2)(C)?

B. PAF Pension Fund Check-Off Processing System

As indicated earlier, both pension funds served as authorized agents in the withholding of 3% PAF contributions from pension benefit payments and the transmittal of monthly totals to PAF. The basic procedure was as follows: 2/ General payments were received by the Pension Funds from the Steamship Companies as negotiated in collective bargaining agreements, and deposited into a general treasury "Reserve Account". From this account, several weeks prior to anticipated use, sufficient funds were transferred to the "Pension Benefit" savings account, for the maximization of interest income. From this account, several days prior to planned expenditures, sufficient funds to cover those expenditures were transferred to two (2) accounts: 1) the Operating Account, and 2) the Pension Benefits Account. As the account titles indicate, the Operating Account is used to fund Pension Fund operating expenditures, while the Pension Benefits Account funds the actual benefit checks to pensioners. The Administrator of the Pension Fund has informed us that the benefit checks for the PAF contributing pensioners were drawn on the Pension Benefits Account, while the check for the total of the month's 3% PAF withholdings, based on that month's computer run, was drawn from the Operating Account and forwarded on to PAF up until February, 1976, usually the following month.

This procedure remained in effect until February, 1976, when as indicated previously, the Pension Fund stopped forwarding PAF monies and instead transferred the monthly total back to the Pension Benefits savings account mentioned above. During the initial phase of our fieldwork, we were able to trace monthly 3% PAF totals from the computer runs to the Pension Benefits savings account statements without material discrepancy. However, our question arises because of the fact that PAF contributions have been accumulating in that account since February, 1976, and that the same account has served as a temporary repository for other Pension Fund general treasury funds. Therefore, whether or not the PAF is successful in its suit to have the funds released, the monies (totaling \$140,360.83 as of 6/30/78) will eventually go to the PAF or the PCF which, in our opinion, will be receiving contributions commingled with funds prohibited under the Act. We request your review of this issue so that we may advise the Committee accordingly.

2/ Applies only to New York-based Pension Fund, the records of which were the only ones available during the initial phase of fieldwork (see Attachment I).

C. Membership Issue

We have been informed by the Administrator of the New York-based Pension Fund that the Pension Fund itself is considered independent from the IOMMP and that the Pension Trust arose out of past collective bargaining agreements between the Steamship Companies and the IOMMP. He added, however, that both parties had representation on the Pension Fund Board of Trustees and that present IOMMP officers serve on the Board of Trustees.

Within the factual situation described in this memo, we question whether the PAF would be considered the separate segregated fund of the IOMMP, or would the PAF be considered the separate segregated fund of a separate membership organization; namely, the Pension Fund. If the Pension Fund is considered as merely an agent of the IOMMP and an integral part thereof, then it would seem to follow that all contributors to the PAF would have to fall within the membership field of the IOMMP, itself.

However, there is a question whether retired members (pensioners) of the Union are still considered "members" within the intent of 2 U.S.C. 441b(b)(4)(A)(ii) (see also 11 CFR 114.1(e)). We have been informed by the Administrator of the Pension Fund that all retirees are given the option of continuing to pay their annual union dues in order to retain their "membership" in the IOMMP, subject to certain restrictions. Our question for your consideration is whether or not this condition (the continuance of the payment of dues to the IOMMP by the retired pensioner), also has to be met in order for the PAF Pensioner to be considered a union member for purposes of the FECA. Depending on your response, we would intend to raise the issue with PAF officials upon resumption of the Audit.

D. Solicitation Issue

As indicated previously, the IOMMP solicited pensioners for check-off authorization on behalf of the PAF, from 1970 to 1975, at a flat 3% rate. We have retained a copy of said solicitation letter and reply card which does not explicitly provide potential contributors the option of giving more or less than the 3% as presently required by 11 CFR 114.5(a)(2) (see Attachment II). Because of the effective date of the Commission's Regulations (April 11, 1977), we do not feel that this section can be applied to PAF, in any case. However, available information suggests that

contributors have been and are being solicited for the PCF on the same basis at a 2% rate, although actual PCF solicitations have not been reviewed. Our question is: To what extent does a solicitation for contributions to a separate segregated fund which has a uniform guideline have to indicate to the potential contributor his ability to give more or less than the guideline suggests?

If you have any questions on the matters contained herein, please contact Craig Russell on extension 3-4155.

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International Organization of
Masters, Mates & Pilots

39 Broadway, New York, N.Y. 10008 / (212) 944-0505 / Cable: BRIDGEDECK / Telex No.: 12-5058

THOMAS J. O'CALLAGHAN
International President

WILLIAM M. LATTINELL
International Executive Vice President

ROBERT J. LOWEN
International Secretary Treasurer

ATTACHMENT II

Dear Brother:

Through the efforts of Collective Bargaining we have negotiated expanded welfare benefits for our pensioners and their dependents.

A conservative estimate concluded that similar benefits provided by a private insurance company would come to an out-of-pocket cost of \$450.00 per year.

The Masters, Mates and Pilots is gratified to inform you of this notable achievement in behalf of all our pensioners as a continuing proof of the dedication of our Organization in your behalf; our way of demonstrating we recognize and appreciate the contributions of the pensioners in the development and progress of the Organization. This latest improvement adds to the benefits obtained in recent years:

- Plan pays Medicare premium for pensioners and dependents over age 65.
- Optical benefits paid to pensioners and dependents up to \$42 per person per year.
- Pensioners and dependents younger than age 65 are eligible for benefits similar to those provided for active employees and their dependents, which is paid entirely by the Welfare Plan.

In the face of the clear and unmistakable threats to the economy of the country, the danger of unrestrained rise in living costs, mounting fears of increased taxation on those least able to pay; a strong effort is urgently needed simply to protect our hard won accomplishments; and an even greater challenge faces us all to expand and increase our material welfare levels.

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Our friends and supporters in Congress carry on an uphill fight in support of our legislative programs. They have earned the right to our full moral and financial support. They must know that we back them up by deeds, by contributions, by the will and the means to back up words with action. Our Organization intends to verify our commitments to friendly and helpful Congressmen, to act and speak with purpose and purse.

AF
[unp] We have established the new Independent IOMM & P Offshore Division Pensioners' Action Fund to meet urgent needs: to move legislatively and politically in behalf of our pensioners and their immediate and long-term interests; to provide improved and new services to pensioners directly by the Organization; to speak for pensioners and their interests at the bargaining table.

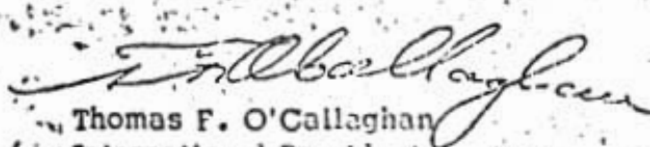
Each individual pensioner has the unequivocal right to voluntarily contribute. We urge your participation in this necessary and crucial effort.

Your signature on the enclosed pension deduction authorization card will record your individual approval of the action campaign we must launch without delay. The Administrator will accept your signed card as authorization to automatically deduct 3% of your pension monthly and forward it to the Fund for the purposes outlined.

Your voluntary contribution is a practical and responsible response to a present clear need, and your personal recognition of the Organization's effort to advance your overall interests in strong and clear action.

I urge you to approve the program and join with all of the pensioners in a united campaign to protect and improve the security and benefits now enjoyed by MM&P members. Please sign now.

Fraternally yours,


Thomas F. O'Callaghan
International President

TOC/mr
Encl.
Rev. 2/73

(2)

Sec. No. _____

(Print Name)

I hereby authorize the Administrator of the M.M. & P. Pension Plan to deduct the sum of 2% from each of my monthly pension checks and forward such amounts to the I.O.M.M. & P. Offshore Division Pensioners' Action Fund. I understand that this is a voluntary contribution and make it on that basis.

I further understand that the money in the Action Fund will be used for contributions to Congressional-Legislative campaigns; to defray expenses in connection with the Union's negotiations and services for its members; and such associated expenditures that the Union may determine.

Date _____

Pensioner's Signature _____

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FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Frank T. Scavo
President
International Organization of
Masters, Mates & Pilots
39 Broadway
New York, New York 10006

Re: MUR 773 (78)

Dear Mr. Scavo:

The Federal Election Commission has found reason to believe that the International Organization of Masters, Mates & Pilots ("the IOMMP") has violated the Federal Election Campaign Act of 1971, as amended. Specifically, the Commission has found reason to believe the IOMMP may have violated 2 U.S.C. § 441b(b)(4)(A)(ii) by soliciting contributions to the Masters, Mates & Pilots Political Contribution Fund ("the PCF") from those who were not members of the IOMMP. 2 U.S.C. § 441(b)(4)(A)(ii) prohibits the separate fund established by a labor organization from soliciting contributions from those who are not members of the labor organization. The Commission has also found reason to believe the IOMMP violated 11 CFR 114.5(a)(2) by soliciting contributions of 2% to the PCF, without informing those solicited of their opportunity to contribute more or less than that amount. 11 CFR 114.5(a)(2) requires a solicitation for contributions to a segregated fund which has a guideline for the amount of the contribution to the fund to inform the person solicited that the guideline is just a suggested one and that more or less may be contributed.

Under the Act, you have an opportunity to demonstrate why no action should be taken against you. 2 U.S.C. § 437g(a)(4). Please submit any factual or legal materials you believe are relevant to the Commission's consideration of



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this matter. Where appropriate, statements or explanations should be made under oath. In addition, please submit a copy of the IOMMP constitution and the by-laws, and any other document setting out the requirements for membership in the IOMMP.

The Commission is under a duty to investigate this matter expeditiously. Therefore, your response should be submitted within ten days after your receipt of this notification. Failure to do so may require the Commission to act on the information available to it. If you intend to be represented by counsel in this matter, please have such counsel notify us in writing.

This letter will remain confidential in accordance with 2 U.S.C. § 437g(a)(3)(B) unless you notify the Commission in writing that you wish the investigation to be made public. If you have any questions, please contact Ms. Marsha Gentner, the attorney assigned to this matter, at (202) 523-4073.

Sincerely,

William C. Oldaker
General Counsel

By:

Charles N. Steele
Associate General Counsel

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FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Harry Seidman
Masters, Mates & Pilots
Political Contribution Fund
Suite 500
1019 19th Street, N.W.
Washington, D.C. 20036

Re: MUR 773 (78)

Dear Mr. Seidman:

The Federal Election Commission has found reason to believe that the Masters, Mates & Pilots Political Contribution Fund ("the PCF") has violated the Federal Election Campaign Act of 1971, as amended. Specifically, the Commission has found reason to believe the PCF may have violated 2 U.S.C. § 441b(b)(4)(A)(ii) by soliciting contributions to the PCF from those who are not members of the International Organization of Masters, Mates & Pilots. 2 U.S.C. § 441b(b)(4)(A)(ii) prohibits the separate segregated fund established by a labor organization from soliciting contributions from those who are not members of the labor organization. The Commission has also found reason to believe the PCF violated 11 CFR 114.5(a)(2) by soliciting a 2% contribution without informing those solicited of their opportunity to contribute more or less than that amount. 11 CFR 114.5(a)(2) requires a solicitation for contributions to a segregated fund which has a guideline for the amount of the contribution to the fund to inform the person solicited that the guideline is just a suggested one and that more or less may be contributed.

Under the Act, you have an opportunity to demonstrate why no action should be taken against you. 2 U.S.C. § 437g(a)(4). Please submit any factual or legal materials you believe are relevant to the Commission's consideration of this matter. Where appropriate, statements or explanations should be made under oath.



The Commission is under a duty to investigate this matter expeditiously. Therefore, your response should be submitted within ten days after your receipt of this notification. Failure to do so may require the Commission to act on the information available to it. If you intend to be represented by counsel in this matter, please have such counsel notify us in writing.

This letter will remain confidential in accordance with 2 U.S.C. § 437g(a)(3)(B) unless you notify the Commission in writing that you wish the investigation to be made public. If you have any questions, please contact Ms. Marsha Gentner, the attorney assigned to this matter, at (202) 523-4073.

Sincerely,

William C. Oldaker
General Counsel

By:

Charles N. Steele
Associate General Counsel

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FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20463

February 14, 1979

MEMORANDUM

TO: WILLIAM OLDAKER
GENERAL COUNSEL

THROUGH: ORLANDO B. POTTER *OBP.*
STAFF DIRECTOR

FROM: *RJC* BOB COSTA/CRAIG RUSSELL *CR*

SUBJECT: FOLLOW-UP MEMORANDUM ON MASTERS, MATES
AND PILOTS PENSIONERS ACTION FUND (PAF)

This will serve to update our previous memo of October 20, 1978 (see copy attached), by presenting additional information gained during the conclusion of fieldwork in New York City from October 17 to October 26, 1978.

A. Membership Issue (Section C of 10/20/78 memo)

Concerning the issue of whether pensioners, regardless of whether they continue to pay dues, are still considered members of the International Organization of Masters, Mates and Pilots (IOMMP) for purposes of the Act, we have completed the analysis of our sample review of PAF contributors. A comparison of the authorization card signature date (the best estimate we have at this time of the actual date of pensioner solicitation) with the pensioner's pension effective (PPE) date (official date of retirement) produced the following results for our sample of 92 PAF-contributing Pensioners: 1) 19.6% of the sampled pensioners had signed their authorization cards prior to their PPE dates, 2) 15.2% of the pensioners had signed their authorization cards between 1 and 10 weeks after the PPE dates (which, in our opinion, could most likely indicate solicitation for PAF membership while still an active member but tardiness in signing and returning the actual authorization card), 3) 65.2% of the sampled pensioners had signed their authorization cards more than 10 weeks after their PPE dates.



Of this latter group, the vast majority (95%) had apparently been included in general solicitations to previously retired pensioners who were not at that time contributing to PAF. Available information suggests these general solicitations of pensioners by the IOMMP on behalf of the PAF were made in September, 1970, February or March, 1971, and June 1972. We have requested confirmation of the solicitation procedure through the PAF attorney. This information indicates that a considerable portion of PAF-contributing pensioners were probably solicited after they had retired and, as indicated in our previous memo, many retired IOMMP pensioners do not elect to retain their membership after retirement. The most recent authorization card signature date significantly after the corresponding PPE date, as per our sample, was December 5, 1973.

We have spoken with the current Secretary-Treasurer of the IOMMP who has stated that IOMMP records are available for our review in order to ascertain which PAF-contributing pensioners had elected to retain their IOMMP membership by paying dues. However, before we embark on this arduous and time consuming task, we question, considering the early dates of the solicitations involved, (the language of 2 U.S.C. 441b(b)(4)(A) (ii) refers to the solicitation of members) whether the current requirements of the Act regarding the solicitation of members even apply to the PAF situation.

If you have any questions, please contact Craig Russell or Jim Commeree on extension 3-4155.

Attachment as stated



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20461

October 20, 1978

MEMORANDUM

TO : WILLIAM OLDAKER

THROUGH : ORLANDO B. POTTER
STAFF DIRECTOR

FROM : *JC* BOB COSTA *for* CRAIG RUSSELL *et*

SUBJECT : MASTERS, MATES AND PILOTS PENSIONERS
ACTION FUND

During recent audit fieldwork done on the Masters, Mates and Pilots Pensioners Action Fund (PAF) we became aware of information which prompts this memo requesting guidance on certain policy questions.

Introduction

Beginning in 1970, the International Organization of Masters, Mates and Pilots (IOMMP) began soliciting voluntary contributions from its retired pensioners for a political fund. These solicitations requested the pensioners to authorize, via a reply card, the MMP Pension Fund to withhold a uniform rate of 3% from their monthly pension benefit checks for collection and transmittal to the political fund. This political fund formally established itself and registered with the U.S. House of Representatives on April 19, 1973, as the Masters, Mates and Pilots Pensioners Action Fund (PAF). The PAF statement of organization discloses the International Organization of Masters, Mates and Pilots (IOMMP) as its affiliated or connected organization and indicates its members are retired members of the IOMMP. The PAF proceeded through most of 1975 on this basis, receiving by that time approximately \$10,000 per month of voluntary 3% check off monies from IOMMP pensioners, administered and transmitted by the IOMMP pension plans. 1/

1/ Actually, the IOMMP had two (2) Pension Funds, one (1) for East and Gulf Coast pensioners based in New York, the other representing West Coast pensioners, headquartered in San Francisco.



In late 1975 or early 1976 during union elections, a political dispute arose between factions in the union (IOMMP) leadership, resulting in the election of new IOMMP officers. As far as we are able to deduce from available information, the dispute centered around the desire of the new President of IOMMP to transform the PAF into a PAC representing both active seamen and pensioners. In contrast the former IOMMP President, responsible for forming the PAF, felt that the interests of pensioners under such a fund would not be given adequate consideration. This resulted, after the switch in IOMMP officers, in a campaign for a new political fund which was to be more broadly based in its solicitation of voluntary political contributions from active seamen/members of IOMMP, as well as pensioners. This fund registered with the Federal Election Commission on November 19, 1976, as the Masters, Mates and Pilots Political Contribution Fund (PCF), listing its connected organization as the IOMMP and indicating that "voluntary contributions are received from current and retired members of the Union."

The new IOMMP leadership instituted a uniform 2% check-off system (in contrast to PAF 3%) in an apparent attempt to persuade pensioners previously contributing to PAF to switch to PCF. The IOMMP solicited PAF pensioners to this effect, in addition to active seamen and more recently retired pensioners. The IOMMP/PCF efforts were at least partially successful and many former PAF pensioners switched their authorization over to PCF, commencing in January of 1977. The PCF has filed reports of receipts and expenditures with the Commission since that time. The PAF has also continued to file.

Apparently as a result of instructions from IOMMP officers, commencing in February of 1976 for the New York-based Pension Fund and in April for the San Francisco-based Pension Fund, all 3% monthly withholdings from PAF pensioners were retained by the Pension funds and not transmitted on to the PAF. These funds have been accumulating in accounts at both Pension funds since that time and as of June 30, 1978, the balances of PAF-withheld funds totaled \$140,360.83 and \$18,904.56 for the New York and San Francisco-based pension plans, respectively. In mid-1977, the PAF filed suit against the Pension Funds (now merged as of 6/30/78) for the release of all 3% voluntary deductions withheld from the PAF by the Pension Funds since 1976. As of the end of the initial audit fieldwork, the law suit remains pending.

A. Affiliation Issue

Within the described factual situation, the question of affiliation between the PAF and PCF arises.

As previously stated both funds have reported the IOMMP for their affiliated connected organization. In addition, to the extent that the IOMMP solicited PAF donating pensioners on behalf of the newly formed PCF, some pensioners have donated to both funds, although not at the same time, as confirmed by our partial review of PAF and PCF reports. In contrast, certain information has been made available to us which leads us to conclude that for practical purposes the PAF and PCF are not affiliated. Representatives of the New York-based Pension Fund have stated that there is no connection between the PAF and the PCF, as evidenced by the fact there are no members common to both Boards of Trustees. In addition, whereas there is an obvious connection between the PCF and present union leaders, and between present union leaders and the IOMMP Pension Fund, the PAF has claimed its independence from both the present union leadership and appears to be administratively separate from the Pension Fund which administers its check-off plan. During our audit fieldwork, as yet uncompleted, we found no evidence of transfers of funds between the PAF and the PCF.

If both PAC's are deemed affiliated by their common connected organization and overlapping membership fields (described above), then we question the propriety of our advising the committee during the completion of audit fieldwork to guard against contributions to Federal candidates, which when aggregated with contributions by PCF to the same candidates, are in excess of the joint limitation of 2 U.S.C. 441a(a)(2)(A).

On the other hand, if it is the opinion of the Office of General Counsel that the two (2) Committees are not affiliated, to what extent would an eventual termination of PAF and transmittal of surplus funds to PCF in excess of \$5,000 be seen as a violation of 2 U.S.C. 441a(a)(2)(C)?

B. PAF Pension Fund Check-Off Processing System

As indicated earlier, both pension funds served as authorized agents in the withholding of 3% PAF contributions from pension benefit payments and the transmittal of monthly totals to PAF. The basic procedure was as follows: 2/ General payments were received by the Pension Funds from the Steamship Companies as negotiated in collective bargaining agreements, and deposited into a general treasury "Reserve Account". From this account, several weeks prior to anticipated use, sufficient funds were transferred to the "Pension Benefit" savings account, for the maximization of interest income. From this account, several days prior to planned expenditures, sufficient funds to cover those expenditures were transferred to two (2) accounts: 1) the Operating Account, and 2) the Pension Benefits Account. As the account titles indicate, the Operating Account is used to fund Pension Fund operating expenditures, while the Pension Benefits Account funds the actual benefit checks to pensioners. The Administrator of the Pension Fund has informed us that the benefit checks for the PAF contributing pensioners were drawn on the Pension Benefits Account, while the check for the total of the month's 3% PAF withholdings, based on that month's computer run, was drawn from the Operating Account and forwarded on to PAF up until February, 1976, usually the following month.

This procedure remained in effect until February, 1976, when as indicated previously, the Pension Fund stopped forwarding PAF monies and instead transferred the monthly total back to the Pension Benefits savings account mentioned above. During the initial phase of our fieldwork, we were able to trace monthly 3% PAF totals from the computer runs to the Pension Benefits savings account statements without material discrepancy. However, our question arises because of the fact that PAF contributions have been accumulating in that account since February, 1976, and that the same account has served as a temporary repository for other Pension Fund general treasury funds. Therefore, whether or not the PAF is successful in its suit to have the funds released, the monies (totaling \$140,360.83 as of 6/30/78) will eventually go to the PAF or the PCF which, in our opinion, will be receiving contributions commingled with funds prohibited under the Act. We request your review of this issue so that we may advise the Committee accordingly.

2/ Applies only to New York-based Pension Fund, the records of which were the only ones available during the initial phase of fieldwork (see Attachment I).

C. Membership Issue

We have been informed by the Administrator of the New York-based Pension Fund that the Pension Fund itself is considered independent from the IOMMP and that the Pension Trust arose out of past collective bargaining agreements between the Steamship Companies and the IOMMP. He added, however, that both parties had representation on the Pension Fund Board of Trustees and that present IOMMP officers serve on the Board of Trustees.

Within the factual situation described in this memo, we question whether the PAF would be considered the separate segregated fund of the IOMMP, or would the PAF be considered the separate segregated fund of a separate membership organization; namely, the Pension Fund. If the Pension Fund is considered as merely an agent of the IOMMP and an integral part thereof, then it would seem to follow that all contributors to the PAF would have to fall within the membership field of the IOMMP, itself.

However, there is a question whether retired members (pensioners) of the Union are still considered "members" within the intent of 2 U.S.C. 441b(b)(4)(A)(ii) (see also 11 CFR 114.1 (e)). We have been informed by the Administrator of the Pension Fund that all retirees are given the option of continuing to pay their annual union dues in order to retain their "membership" in the IOMMP, subject to certain restrictions. Our question for your consideration is whether or not this condition (the continuance of the payment of dues to the IOMMP by the retired pensioner), also has to be met in order for the PAF Pensioner to be considered a union member for purposes of the FECA. Depending on your response, we would intend to raise the issue with PAF officials upon resumption of the Audit.

D. Solicitation Issue

As indicated previously, the IOMMP solicited pensioners for check-off authorization on behalf of the PAF, from 1970 to 1975, at a flat 3% rate. We have retained a copy of said solicitation letter and reply card which does not explicitly provide potential contributors the option of giving more or less than the 3% as presently required by 11 CFR 114.5(a)(2) (see Attachment II). Because of the effective date of the Commission's Regulations (April 11, 1977), we do not feel that this section can be applied to PAF, in any case. However, available information suggests that

contributors have been and are being solicited for the PCF on the same basis at a 2% rate, although actual PCF solicitations have not been reviewed. Our question is: To what extent does a solicitation for contributions to a separate segregated fund which has a uniform guideline have to indicate to the potential contributor his ability to give more or less than the guideline suggests?

If you have any questions on the matters contained herein, please contact Craig Russell on extension 3-4155.

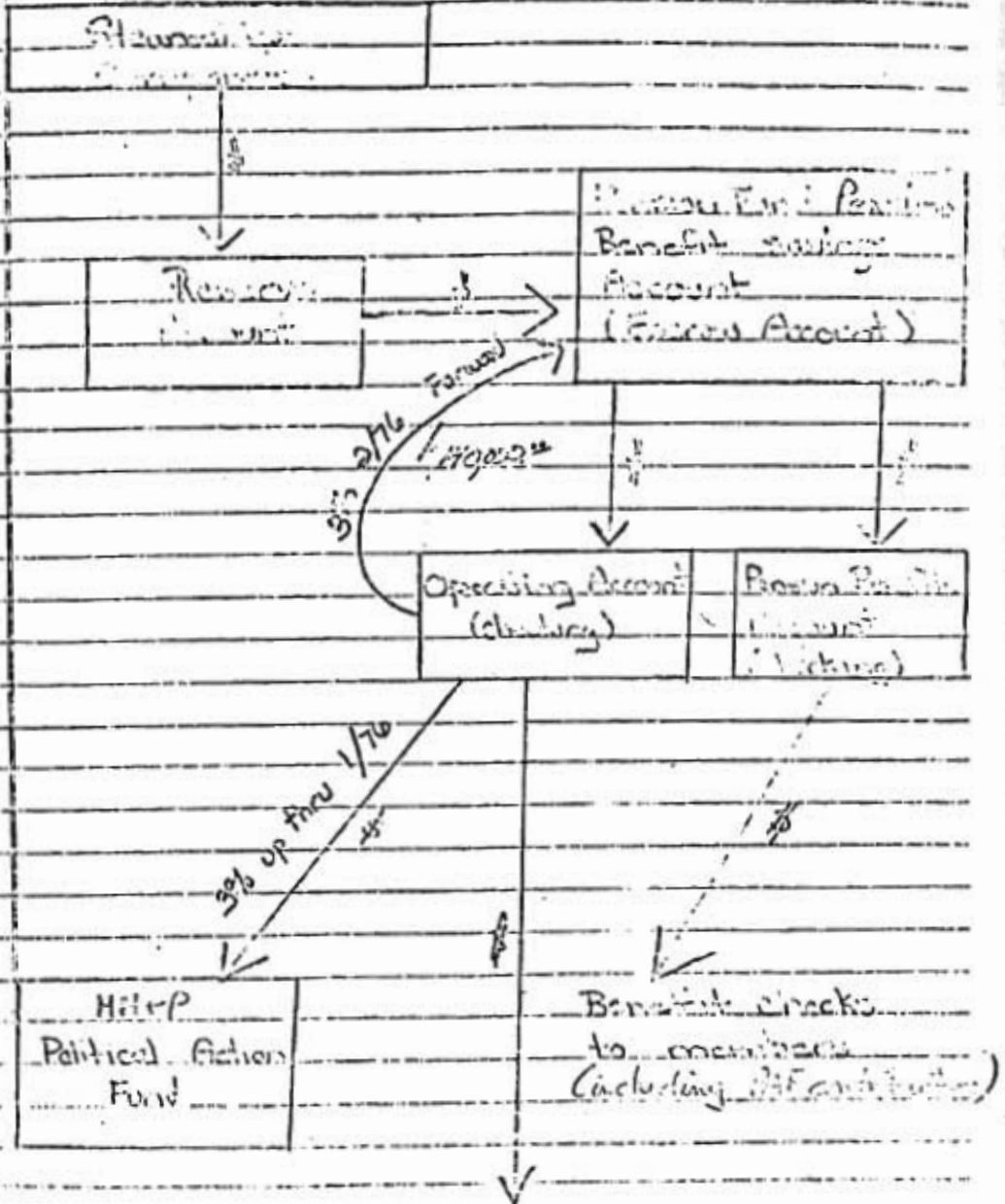
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Defunct Conference

2/1/70

EAST COAST Pension Fund


Funds Flow DIAGRAM



Page 1 of 1

SOURCE
REMARKS

81047253919



Masters, Mates & Pilots

39 Broadway, New York, N.Y. 10006/(212) 944-0505/Cable: BRIDGEDECK/Telex No.: 12-5058

THOMAS E. O'CALLAGHAN

International President

WILLIAM M. CALDWELL

International Executive Vice President

ROBERT J. LOWEN

International Secretary Treasurer

ATTACHMENT II

Dear Brother:

Through the efforts of Collective Bargaining we have negotiated expanded welfare benefits for our pensioners and their dependents.

A conservative estimate concluded that similar benefits provided by a private insurance company would come to an out-of-pocket cost of \$450.00 per year.

The Masters, Mates and Pilots is gratified to inform you of this notable achievement in behalf of all our pensioners as a continuing proof of the dedication of our Organization in your behalf; our way of demonstrating we recognize and appreciate the contributions of the pensioners in the development and progress of the Organization. This latest improvement adds to the benefits obtained in recent years:

Plan pays Medicare premium for pensioners and dependents over age 65.

Optical benefits paid to pensioners and dependents up to \$42 per person per year.

Pensioners and dependents younger than age 65 are eligible for benefits similar to those provided for active employees and their dependents, which is paid entirely by the Welfare Plan.

In the face of the clear and unmistakable threats to the economy of the country, the danger of unrestrained rise in living costs, mounting fears of increased taxation on those least able to pay; a strong effort is urgently needed simply to protect our hard won accomplishments; and an even greater challenge faces us all to expand and increase our material welfare levels.

①

Our friends and supporters in Congress carry on an uphill fight in support of our legislative programs. They have earned the right to our full moral and financial support. They must know that we back them up by deeds, by contributions, by the will and the means to back up words with action. Our Organization intends to verify our commitments to friendly and helpful congressmen, to act and speak with purpose and purpose.

We have established the new Independent IOMM & P Offshore Pensioners' Action Fund to meet urgent needs: to move legislatively and politically in behalf of our pensioners and their immediate and long-term interests; to provide improved and new services to pensioners directly by the organization; to speak for pensioners and their interests at the bargaining table.

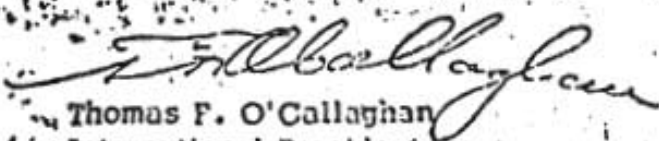
Each individual pensioner has the unequivocal right to voluntarily contribute. We urge your participation in this necessary and crucial effort.

Your signature on the enclosed pension deduction authorization card will record your individual approval of the action campaign we must launch without delay. The Administrator will accept your signed card as authorization to automatically deduct 3% of your pension monthly and forward it to the Fund for the purposes outlined.

Your voluntary contribution is a practical and responsible response to a present clear need, and your personal recognition of the Organization's effort to advance your overall interests in strong and clear action.

I urge you to approve the program and join with all of the pensioners in a united campaign to protect and improve the security and benefits now enjoyed by MM&P members. Please sign now.

Fraternally yours,


Thomas F. O'Callaghan
International President

TOC/mr
Encl.
Rev. 2/73

(2)

Soc. Sec. No. _____

(Print Name)

I authorize the Administrator of the M.I. & P. Pension Plan to deduct the sum of 2% from each of my monthly pension checks and forward the same to the I.O.M. & P. Offshore Division Pensioners' Fund. I understand that this is a voluntary contribution and it on that basis.

I understand that the money in the Action Fund will be used for contributions to Congressional-Legislative campaigns; to defray expenses in connection with the Union's negotiations and services for members; and such associated expenditures that the Union may determine.

Date _____

Pensioner's Signature _____

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FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20463

Shir
RECEIVED
OFFICE OF THE
COMM. SECRETARY

79 FEB 9 P 4: 51

February 9, 1979

MEMORANDUM TO: Marge Emmons
FROM: Elissa T. Garr
SUBJECT: MUR 773

Please withdraw the General Counsel's Report on MUR 773 now being circulated to the Commission. A revised report will be circulated as soon as possible.

Thank you.

81040253923

February 8, 1979

MEMORANDUM TO: Marge Emmons
FROM: Eliass T. Carr
SUBJECT: MUR 773

Please have the attached General Counsel's Report
on MUR 773 distributed to the Commission on a 48 hour
tally basis.

Thankyou.

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BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

79 FEB 8 P 4: 42

In the Matter of)
Masters, Mates & Pilots)
Pensioners Action Fund)

MUR 773 (78)

GENERAL COUNSEL'S REPORT

Background and Evidence

This matter stems from an audit for cause of the Masters, Mates & Pilots Pensioners Action Fund ("the PAF") that is currently being conducted by the audit division.

Starting in 1970, the International Organization of Masters, Mates and Pilots ("the IOMMP"), a labor union, began to solicit contributions to a political fund from pensioners who had been members of the Offshore Division of the union before retiring. The solicitation took the form of a request to the pensioners to authorize the trustees of the IOMMP Pension Fund to withhold a 3% deduction from their monthly pension benefit checks, to be transferred to a political fund. In April of 1973, the PAF registered with the Clerk of the House, disclosing the IOMMP as its connected organization.

In early 1976, a dispute arose within the IOMMP which resulted in the election of new officers of the union. The new officers decided to transform the PAF, which was established by the former union officers, into a successor political fund which would solicit contributions from actively employed members

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and pensioners of all divisions of the IOMMP as well as retired pensioners of the Offshore Division. This new political fund registered with the Commission on November 19, 1976, as the Masters, Mates and Pilots Political Contribution Fund ("the PCF") and listed the IOMMP as its connected organization. Pensioners were solicited by the IOMMP to begin or switch their authorization to a 2% deduction from pension benefit checks to be transferred to the PCF. Both the PCF and the PAF have continued to report to the Commission.

Beginning in February 1976, upon instructions from the IOMMP officers, the administrator of the IOMMP Pension Plan discontinued the transfer of the authorized 3% monthly deductions to the PAF. These funds have been accumulating in Pension Fund accounts, and as of June 30, 1978, totalled \$159,265.39. In April of 1977, the PAF filed a suit against the Pension Fund and its administrator in order to secure release of all PAF authorized deduction funds. That suit, filed in the United States District Court in the Southern District of New York, is premised on alleged violations of the Federal Pension Act, ERISA. That action remains pending. It is that law suit, and the circumstances that precipitated it, that present certain policy questions upon which the auditors sought advice from this Office.

Preliminary Legal Analysis

A. Affiliation Issue

The auditors first sought advice on whether the PAF and PCF are to be considered as affiliated political action committee ("PAC's"). 1/ It is the opinion of the Office of General Counsel that the PAF and PCF are affiliated by virtue of their common connected organization, the IOMMP.

2 U.S.C. § 441a(a)(5); 11 C.F.R. 110.3.

Under 11 C.F.R. 100.14(c)(2), all committees which are established, financed, maintained, or controlled by the same labor organization are affiliated. Both the PAF and the PCF were "established" by the IOMMP. The PAF was set up by the then President of the IOMMP, as was the PCF. The solicitations of contributions to the PAF, and subsequently to the PCF, were made under the union letterhead and signed by the President of the IOMMP. IOMMP access to union employees was taken advantage of in these solicitations, as well. Also, both PAC's list the IOMMP as their connected organization on their statements of organization.

But while the PCF does not deny that it is affiliated

1/ If the two PAC's are not deemed to be affiliated, then any eventual transfer to the PCF of PAF funds withheld by the Pension Fund in excess of \$5,000-- a strong possibility should the PAF lose its law suit-- would be in violation of 2 U.S.C. § 441a(a)(2)(C). On the other hand, if the two PAC's are affiliated, contributions to federal candidates by one would be considered contributions by the other also, for purposes of the limitations in 2 U.S.C. § 441a(a)(2)(A).

and connected with the IOMMP, the PAF now claims to be an independent Masters, Mates and Pilots pensioners' organization, completely separate from the IOMMP. The PAF, however, never amended its Statement of Organization to reflect that it was no longer connected to the IOMMP. Rather, the PAF relies on the fact that none of the present officers of the committee are officers of the IOMMP or PCF (although they are past officers of the union) as evidence that the PAF's assertion of independence is well founded. Common officers, though, is not a determinative factor in determining whether the organizations are connected or affiliated.

The critical factors of establishment of the political committee by the union and the fact that the first solicitations for contributions were made by the IOMMP, See AO-77-2, demonstrate that the PAF is connected to the IOMMP and therefore affiliated to the IOMMP's other PAC, the PCF. 11 CFR 100.14(c)(2); 100.15. Therefore, under 2 U.S.C. § 441a(a)(5), any contribution by the PAF is considered to be a contribution by the PCF, and vice versa, for purposes of contribution limitations. Because of the above-mentioned facts, the Office of General Counsel recommends that the Commission find that the PCF, PAF, and the IOMMP are affiliated, and that these three groups should be informed of the Commission's position on this issue in order to prevent possible future violations of 2 U.S.C. § 441a(a)(2).

B. Commingling

As was previously noted, beginning in early 1976, all authorized deductions from pension benefit checks for PAF contributions were withheld by the Pension Fund administrator, apparently at the IOMMP's request, and not transferred to the PAF. Instead, these authorized contributions were, and still are, being kept in a Pension Fund account which also contains pension monies used to defray the Fund's operating expenses. Upon completion of the law suit involving this set of circumstances, See Background and Evidence, supra, these contributed funds will either be transferred to the PAF or the PCF. If either PAC subsequently contributes to a federal candidate, there will arise the question of whether some of the PAC money was commingled with Pension Fund general funds in violation of 2 U.S.C. § 441b(a).

The initial issue that must be resolved is whether commingling with Pension Fund monies would taint the contributed money in such a way that any subsequent contribution of these funds would be a violation of 2 U.S.C. § 441b(a). It is the opinion of the General Counsel's Office that contribution of such commingled funds to federal candidates would be in violation of the Act.

The Pension Fund is financed by contributions from the employers of IOMMP members, pursuant to a collective bargaining agreement. Some of these employers are corporations. The

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funds are not vested in the individual IOMMP members until eligibility under the Pension Plan is obtained. There are provisions in the Pension Plan whereby the employers/corporations may be "returned" some of the funds they have contributed. Therefore, the funds in the Pension Fund Operating Account could be said to include corporate monies, which would make any political contribution funds commingled with it ineligible for contribution to federal candidates under 2 U.S.C. § 441b(a).

In AO 77-65, a similar set of circumstances was held to have comprised an indirect corporate contribution. In that instance, an organization (not a corporation or union) wanted to transfer to its connected PAC certain funds, some of which were derived by the sale of advertising in programs and tickets to fund-raisers to corporations and unions. Though the money in question no longer was that of the corporation/labor organization when commingled with the organization's other funds, it was still considered to be, at least indirectly, corporate/union funds and not permitted to be transferred to the PAC. In the present case, not only are the Pension Fund operating monies derived from corporate contributions, but may possibly still be corporate funds, since some of the money may revert back to the various employers/corporations.

Another factor leading to the conclusion that commingling of general Pension Fund monies with PAC monies would make

subsequent PAC contributions to federal candidates unlawful is the extensive control the IOMMP has over the Pension Fund assets. While the IOMMP and employers each have three representatives on the Pension Fund's 6 member Board of Trustees, practically speaking, the IOMMP exercises much direct control in the Pension Fund's administration. 2/ This control makes the Pension Funds almost like union funds, for purposes of political contributions. 3/

At this point in time, however, even accepting the foregoing opinion, no violation of 2 U.S.C. § 441b(a) has occurred because none of the commingled funds have been transferred to either PAC and, thus, not contributed to federal candidates. But, as soon as the law suit involving these funds is settled the funds will be transferred to either the PAF or PCF, probably to be spent later on federal elections.

2/ An example of this is the relative ease with which the IOMMP was able to stop tranfers from the Pension Fund to the PAF.

3/ According to Pipefitters v. United States, 407 U.S. 385 (1972), the purpose behind prohibition of union contributions and the requirement that union funds be segregated from political funds is to prevent the influence of aggregated wealth on federal candidates and to protect minority union member interests. The union influence would be just as strongly felt if pension funds controlled by the union found their way into federal campaigns as if union funds were directly contributed. Also, the interests of pensioners who disagree with the union leadership would not be protected.

It would seem unfair to at that point find either PAC in violation of 2 U.S.C. § 441b(a) since neither really wanted the funds to be "frozen" in the Pension Fund account and commingled with Pension Fund monies. The Office of General Counsel therefore recommends that the Commission instruct the Pension Fund administrator to place all authorized deducted political contributions in a separate, segregated account and to take no action concerning the commingling of these funds prior to this instruction, thereby insuring that the funds are segregated from all other monies before they are transferred to a PAC.

C. Membership

Because of the conclusion reached in Part A., that both the PCF and the PAF are separate, segregated funds of the IOMMP, a possibility is raised that 2 U.S.C. § 441b(b) (4) (A) (ii) is being violated by the solicitation of pensioners for contributions to the PAF and PCF. 2 U.S.C. § 441b(b) (4) (A) (ii) states that only members of the union may be solicited for contributions to the union's political action arm, thus raising the issue of whether pensioners are union members. It is the opinion of the General Counsel that they are not.

11 C.F.R. 114.1(e) defines "member" of a labor organization as one who currently satisfies the requirements for membership in the local, national, or international labor organization.

One of the most important requirements for membership in the IOMMP is the payment of dues. Yet most of the pensioners solicited do not pay IOMMP dues, 4/ nor do the pensioners stand in the same relationship to the IOMMP as actively employed members do. Pensioners cannot vote in IOMMP elections and cannot be officers of the union. 5/ The pensioners do not share the same community of interests with the IOMMP as actively employed members do, either. The Office of General Counsel therefore recommends that the Commission find reason to believe the PAF, PCF, and IOMMP violated 2 U.S.C. § 441b(b)(4)(A)(ii). 6/

- 4/ See Advisory Opinion 77-67, where a PAC established by a non-stock corporation was permitted to solicit "members" who had affirmatively indicated a desire to be members and who regularly paid dues or had them specifically waived.
- 5/ In AO 77-17, "commodity representatives" were found not to be "members" of the Chicago Mercantile Exchange and therefore could not be solicited by the Exchange PAC under 2 U.S.C. § 441b(b)(c). Some of the factors relied upon by the Commission in making this determination included the ineligibility of the commodity representatives to become officers or directors of the Exchange, and the absence of any voting rights by the representatives as to Exchange elections or adoptions of rules.
- 6/ There is some evidence that since the effective date of enforcement of 2 U.S.C. § 441b(b)(4)(A)(ii), pensioners have not been solicited for contributions to the PAF. Rather, active IOMMP members were asked to sign an authorization to deduct 3% of their monthly pension benefit checks at the time when they completed other forms in preparation for their upcoming retirement. However, since the authorization did not take effect until the person was a retired pensioner, and since the authorization continued to stay in effect for as long as that person received pension benefits, the Office of General Counsel considers the authorization and deduction to have been a continuous solicitation that extended to the time when these individuals had retired and were no longer active union members.

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D. Solicitation

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The authorization form used for deduction of 3% of monthly pension benefits to the PAF does not disclose to the individual solicited that more or less than 3% may be contributed and that the 3% figure is only a suggested one. This would apparently place the PAF and the IOMMP in violation of 11 CFR 114.5(a)(2). While the effective date of this regulation, April 13, 1977, was at a time when PAF authorization forms were no longer being distributed, it is the opinion of the General Counsel that upon promulgation of this regulation, the IOMMP and PAF had an obligation to inform those who had previously signed PAF authorization forms that the 3% figure was not a rigid one. Also, the solicitation may be viewed as continuous in nature, extending as long as the authorization for the 3% deduction. See n.6, supra.

The PCF has also used an affirmative check-off approach to acquiring contributions. The PCF authorization is for 2%, and likewise does not inform the contributor of his option to contribute more or less. The Office of General Counsel therefore recommends that the Commission find reason to believe the PCF, PAF, and IOMMP apparently violated 11 CFR 114.5(a)(2).

RECOMMENDATIONS


1. Hold that the PCF and PAF are affiliated for purposes of 2 U.S.C. § 441a(a) and inform them and the IOMMP of this decision.
2. Request the administrator of the Masters, Mates and Pilots Pension Fund to put all funds authorized as political contribu-

tions that are currently being held in the Pension Fund operating account into a separate, segregated account; and to take no action concerning commingling of these funds prior to that request.

3. Find reason to believe the PAF, PCF, and IOMMP apparently violated 2 U.S.C. § 441b(b)(4)(A)(ii) by soliciting contributions to the PAF and PCF from non-IOMMP members.
4. Find reason to believe the PAF, PCF and IOMMP apparently violated 11 CFR 114.5(a)(2) by not informing those solicited that they could contribute more or less than the percentage stated in the solicitation.
5. Send the attached letters.

81010053303
Date

2/1/79


William C. Oldaker
General Counsel

Attachments:

Audit Referral
Letters



FEDERAL ELECTION COMMISSION

125 K STREET N.W.
WASHINGTON, D.C. 20463

October 20, 1978

MEMORANDUM

TO : WILLIAM OLDAKER

THROUGH : ORLANDO B. POTTER
STAFF DIRECTOR

FROM : *JC* BOB COSTA *CR* CRAIG RUSSELL *CR*

SUBJECT : MASTERS, MATES AND PILOTS PENSIONERS
ACTION FUND

During recent audit fieldwork done on the Masters, Mates and Pilots Pensioners Action Fund (PAF) we became aware of information which prompts this memo requesting guidance on certain policy questions.

Introduction

Beginning in 1970, the International Organization of Masters, Mates and Pilots (IOMMP) began soliciting voluntary contributions from its retired pensioners for a political fund. These solicitations requested the pensioners to authorize, via a reply card, the MMP Pension Fund to withhold a uniform rate of 3% from their monthly pension benefit checks for collection and transmittal to the political fund. This political fund formally established itself and registered with the U.S. House of Representatives on April 19, 1973, as the Masters, Mates and Pilots Pensioners Action Fund (PAF). The PAF statement of organization discloses the International Organization of Masters, Mates and Pilots (IOMMP) as its affiliated or connected organization and indicates its members are retired members of the IOMMP. The PAF proceeded through most of 1975 on this basis, receiving by that time approximately \$10,000 per month of voluntary 3% check off monies from IOMMP pensioners, administered and transmitted by the IOMMP pension plans. 1/

1/ Actually, the IOMMP had two (2) Pension Funds, one (1) for East and Gulf Coast pensioners based in New York, the other representing West Coast pensioners, headquartered in San Francisco.



In late 1975 or early 1976 during union elections, a political dispute arose between factions in the union (IOMMP) leadership, resulting in the election of new IOMMP officers. As far as we are able to deduce from available information, the dispute centered around the desire of the new President of IOMMP to transform the PAF into a PAC representing both active seamen and pensioners. In contrast the former IOMMP President, responsible for forming the PAF, felt that the interests of pensioners under such a fund would not be given adequate consideration. This resulted, after the switch in IOMMP officers, in a campaign for a new political fund which was to be more broadly based in its solicitation of voluntary political contributions from active seamen/members of IOMMP, as well as pensioners. This fund registered with the Federal Election Commission on November 19, 1976, as the Masters, Mates and Pilots Political Contribution Fund (PCF), listing its connected organization as the IOMMP and indicating that "voluntary contributions are received from current and retired members of the Union."

The new IOMMP leadership instituted a uniform 2% check-off system (in contrast to PAF 3%) in an apparent attempt to persuade pensioners previously contributing to PAF to switch to PCF. The IOMMP solicited PAF pensioners to this effect, in addition to active seamen and more recently retired pensioners. The IOMMP/PCF efforts were at least partially successful and many former PAF pensioners switched their authorization over to PCF, commencing in January of 1977. The PCF has filed reports of receipts and expenditures with the Commission since that time. The PAF has also continued to file.

Apparently as a result of instructions from IOMMP officers, commencing in February of 1976 for the New York-based Pension Fund and in April for the San Francisco-based Pension Fund, all 3% monthly withholdings from PAF pensioners were retained by the Pension funds and not transmitted on to the PAF. These funds have been accumulating in accounts at both Pension funds since that time and as of June 30, 1978, the balances of PAF-withheld funds totaled \$140,360.83 and \$18,904.56 for the New York and San Francisco-based pension plans, respectively. In mid-1977, the PAF filed suit against the Pension Funds (now merged as of 6/30/78) for the release of all 3% voluntary deductions withheld from the PAF by the Pension Funds since 1976. As of the end of the initial audit fieldwork, the law suit remains pending.

A. Affiliation Issue

Within the described factual situation, the question of affiliation between the PAF and PCF arises.

As previously stated both funds have reported the IOMMP for their affiliated connected organization. In addition, to the extent that the IOMMP solicited PAF donating pensioners on behalf of the newly formed PCF, some pensioners have donated to both funds, although not at the same time, as confirmed by our partial review of PAF and PCF reports. In contrast, certain information has been made available to us which leads us to conclude that for practical purposes the PAF and PCF are not affiliated. Representatives of the New York-based Pension Fund have stated that there is no connection between the PAF and the PCF, as evidenced by the fact there are no members common to both Boards of Trustees. In addition, whereas there is an obvious connection between the PCF and present union leaders, and between present union leaders and the IOMMP Pension Fund, the PAF has claimed its independence from both the present union leadership and appears to be administratively separate from the Pension Fund which administers its check-off plan. During our audit fieldwork, as yet uncompleted, we found no evidence of transfers of funds between the PAF and the PCF.

If both PAC's are deemed affiliated by their common connected organization and overlapping membership fields (described above), then we question the propriety of our advising the committee during the completion of audit fieldwork to guard against contributions to Federal candidates, which when aggregated with contributions by PCF to the same candidates, are in excess of the joint limitation of 2 U.S.C. 441a(a)(2)(A).

On the other hand, if it is the opinion of the Office of General Counsel that the two (2) Committees are not affiliated, to what extent would an eventual termination of PAF and transmittal of surplus funds to PCF in excess of \$5,000 be seen as a violation of 2 U.S.C. 441a(a)(2)(C)?

B. PAF Pension Fund Check-Off Processing System

As indicated earlier, both pension funds served as authorized agents in the withholding of 3% PAF contributions from pension benefit payments and the transmittal of monthly totals to PAF. The basic procedure was as follows: 2/ General payments were received by the Pension Funds from the Steamship Companies as negotiated in collective bargaining agreements, and deposited into a general treasury "Reserve Account". From this account, several weeks prior to anticipated use, sufficient funds were transferred to the "Pension Benefit" savings account, for the maximization of interest income. From this account, several days prior to planned expenditures, sufficient funds to cover those expenditures were transferred to two (2) accounts: 1) the Operating Account, and 2) the Pension Benefits Account. As the account titles indicate, the Operating Account is used to fund Pension Fund operating expenditures, while the Pension Benefits Account funds the actual benefit checks to pensioners. The Administrator of the Pension Fund has informed us that the benefit checks for the PAF contributing pensioners were drawn on the Pension Benefits Account, while the check for the total of the month's 3% PAF withholdings, based on that month's computer run, was drawn from the Operating Account and forwarded on to PAF up until February, 1976, usually the following month.

This procedure remained in effect until February, 1976, when as indicated previously, the Pension Fund stopped forwarding PAF monies and instead transferred the monthly total back to the Pension Benefits savings account mentioned above. During the initial phase of our fieldwork, we were able to trace monthly 3% PAF totals from the computer runs to the Pension Benefits savings account statements without material discrepancy. However, our question arises because of the fact that PAF contributions have been accumulating in that account since February, 1976, and that the same account has served as a temporary repository for other Pension Fund general treasury funds. Therefore, whether or not the PAF is successful in its suit to have the funds released, the monies (totaling \$140,360.83 as of 6/30/78) will eventually go to the PAF or the PCF which, in our opinion, will be receiving contributions commingled with funds prohibited under the Act. We request your review of this issue so that we may advise the Committee accordingly.

2/ Applies only to New York-based Pension Fund, the records of which were the only ones available during the initial phase of fieldwork (see Attachment I).

C. Membership Issue

We have been informed by the Administrator of the New York-based Pension Fund that the Pension Fund itself is considered independent from the IOMMP and that the Pension Trust arose out of past collective bargaining agreements between the Steamship Companies and the IOMMP. He added, however, that both parties had representation on the Pension Fund Board of Trustees and that present IOMMP officers serve on the Board of Trustees.

Within the factual situation described in this memo, we question whether the PAF would be considered the separate segregated fund of the IOMMP, or would the PAF be considered the separate segregated fund of a separate membership organization; namely, the Pension Fund. If the Pension Fund is considered as merely an agent of the IOMMP and an integral part thereof, then it would seem to follow that all contributors to the PAF would have to fall within the membership field of the IOMMP, itself.

However, there is a question whether retired members (pensioners) of the Union are still considered "members" within the intent of 2 U.S.C. 441b(b)(4)(A)(ii) (see also 11 CFR 114.1 (e)). We have been informed by the Administrator of the Pension Fund that all retirees are given the option of continuing to pay their annual union dues in order to retain their "membership" in the IOMMP, subject to certain restrictions. Our question for your consideration is whether or not this condition (the continuance of the payment of dues to the IOMMP by the retired pensioner), also has to be met in order for the PAF Pensioner to be considered a union member for purposes of the FECA. Depending on your response, we would intend to raise the issue with PAF officials upon resumption of the Audit.

D. Solicitation Issue

As indicated previously, the IOMMP solicited pensioners for check-off authorization on behalf of the PAF, from 1970 to 1975, at a flat 3% rate. We have retained a copy of said solicitation letter and reply card which does not explicitly provide potential contributors the option of giving more or less than the 3% as presently required by 11 CFR 114.5(a)(2) (see Attachment II). Because of the effective date of the Commission's Regulations (April 11, 1977), we do not feel that this section can be applied to PAF, in any case. However, available information suggests that

contributors have been and are being solicited for the PCF on the same basis at a 2% rate, although actual PCF solicitations have not been reviewed. Our question is: To what extent does a solicitation for contributions to a separate segregated fund which has a uniform guideline have to indicate to the potential contributor his ability to give more or less than the guideline suggests?

If you have any questions on the matters contained herein, please contact Craig Russell on extension 3-4155.

81040253941



Masters, Mates & Pilots

39 Broadway, New York, N.Y. 10006/(212) 944-6505/Cable: BRIDGEDECK/Telex No.: 12-5058

THOMAS J. O'CALLAGHAN
International President
WILLIAM M. CAFFREY
International Executive Vice President
ROBERT J. LOWEN
International Secretary-Treasurer

ATTACHMENT II

Dear Brother:

Through the efforts of Collective Bargaining we have negotiated expanded welfare benefits for our pensioners and their dependents.

A conservative estimate concluded that similar benefits provided by a private insurance company would come to an out-of-pocket cost of \$450.00 per year.

The Masters, Mates and Pilots is gratified to inform you of this notable achievement in behalf of all our pensioners as a continuing proof of the dedication of our Organization in your behalf; our way of demonstrating we recognize and appreciate the contributions of the pensioners in the development and progress of the Organization. This latest improvement adds to the benefits obtained in recent years:

- Plan pays Medicare premium for pensioners and dependents over age 65.
- Optical benefits paid to pensioners and dependents up to \$42 per person per year.
- Pensioners and dependents younger than age 65 are eligible for benefits similar to those provided for active employees and their dependents, which is paid entirely by the Welfare Plan.

In the face of the clear and unmistakable threats to the economy of the country, the danger of unrestrained rise in living costs, mounting fears of increased taxation on those least able to pay; a strong effort is urgently needed simply to protect our hard won accomplishments; and an even greater challenge faces us all to expand and increase our material welfare levels.

Our friends and supporters in Congress carry on an uphill fight in support of our legislative programs. They have earned the right to our full moral and financial support. They must know that we back them up by deeds, by contributions, by the will and the means to back up words with action. Our Organization intends to verify our commitments to friendly and helpful congressmen, to act and speak with purpose and purpose.

We have established the new Independent IOMM & P Offshore Pensioners' Action Fund to meet urgent needs: to move legislatively and politically in behalf of our pensioners and their immediate and long-term interests; to provide improved and new services to pensioners directly by the Organization; to speak for pensioners and their interests at the bargaining table.

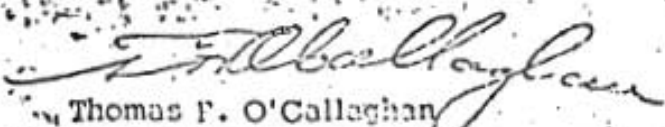
Each individual pensioner has the unequivocal right to voluntarily contribute. We urge your participation in this necessary and crucial effort.

Your signature on the enclosed pension deduction authorization card will record your individual approval of the action campaign we must launch without delay. The Administrator will accept your signed card as authorization to automatically deduct 3% of your pension monthly and forward it to the Fund for the purposes outlined.

Your voluntary contribution is a practical and responsible response to a present clear need, and your personal recognition of the Organization's effort to advance your overall interests in strong and clear action.

I urge you to approve the program and join with all of the pensioners in a united campaign to protect and improve the security and benefits now enjoyed by MM&P members. Please sign now.

Fraternally yours,


Thomas P. O'Callaghan
International President

TOC/mr
Encl.
Rev. 2/73

(2)

Pension Deduction

Authorization Card

Soc. Sec. No. _____

(Print Name)

I authorize the Administrator of the H.M. & P. Pension Plan to
deduct 3% from each of my monthly pension checks and for-
ward the same to the I.O.M. & P. Offshore Division Pensioners'
Fund. I understand that this is a voluntary contribution and
it on that basis.

I understand that the money in the Action Fund will be used
for contributions to Congressional-Legislative campaigns; to defray
costs in connection with the Union's negotiations and services for
members; and such associated expenditures that the Union may de-

Date _____

Pensioner's Signature _____

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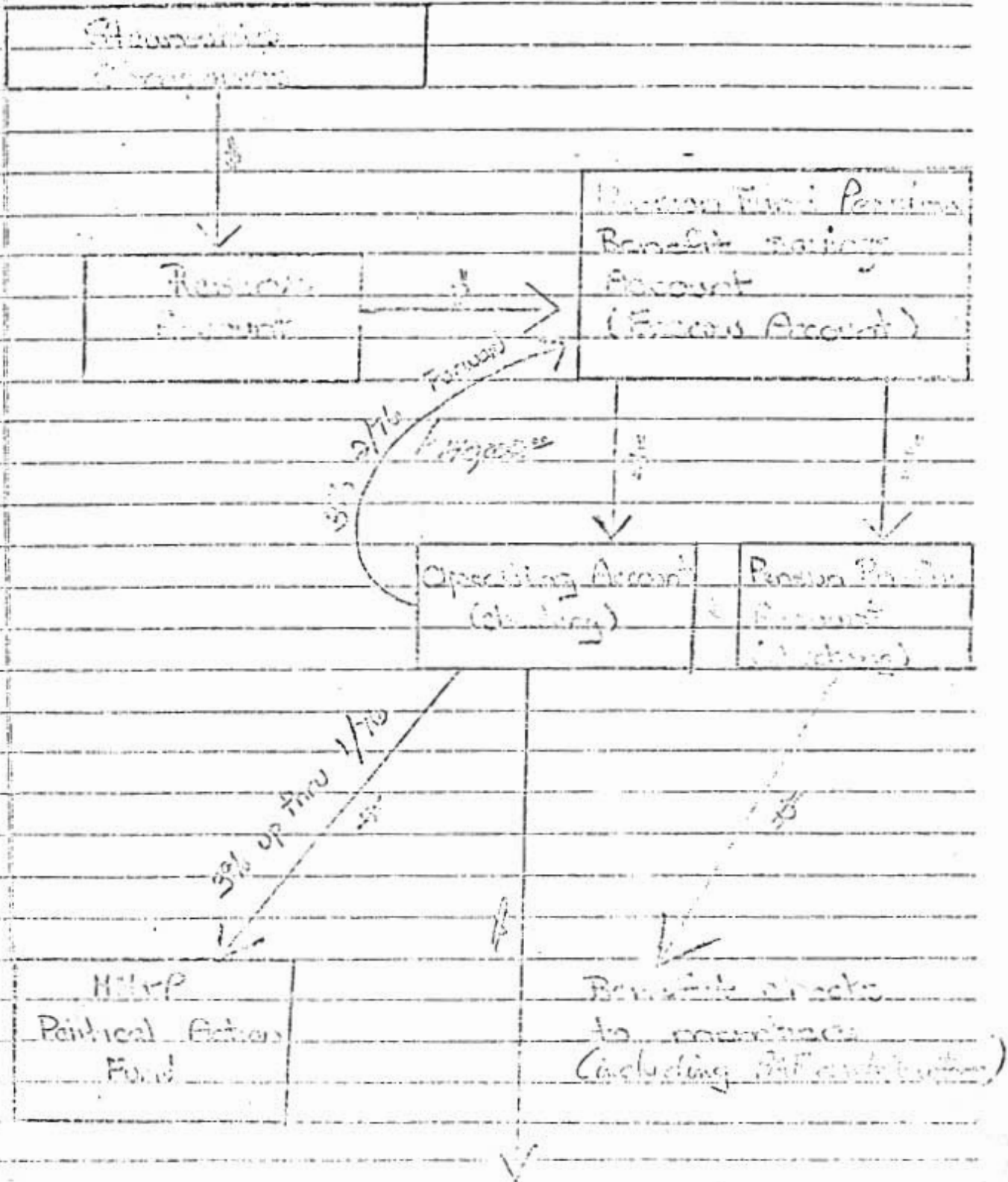
ATTACHMENT **I**

Information

1/1/70

EACCI Pension Fund

Funds Flow Diagram



Pension Fund

SOURCE

Total 1/1/70

PURPOSE

To EACCI, from 1/1/70

Total 1/1/70

1/1/70



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Frank T. Scavo
President
International Organization of
Masters, Mates & Pilots
39 Broadway
New York, New York 10006

Re: MUR 773 (78)

Dear Mr. Scavo:

The Federal Election Commission has found reason to believe that the International Organization of Masters, Mates & Pilots ("the IOMMP") has violated the Federal Election Campaign Act of 1971, as amended. Specifically, the Commission has found reason to believe the IOMMP may have violated 2 U.S.C. § 441b(b)(4)(A)(ii) by soliciting contributions to the Masters, Mates & Pilots Pensioners Action Fund ("the PAF") and the Masters, Mates & Pilots Political Contribution Fund ("the PCF") from those who were not members of the IOMMP. 2 U.S.C. § 441b(b)(4)(A)(ii) prohibits the separate fund established by a labor organization from soliciting contributions from those who are not members of the labor organization. The Commission has also found reason to believe the IOMMP violated 11 CFR 114.5(a)(2) by soliciting contributions of 3%, and 2% to the PAF and PCF, respectively, without informing those solicited of their opportunity to contribute more or less than that amount. 11 CFR 114.5(a)(2) requires a solicitation for contributions to a segregated fund which has a guideline for the amount of the contribution to the fund to inform the person solicited that the guideline is just a suggested one and that more or less may be contributed.

Under the Act, you have an opportunity to demonstrate why no action should be taken against you. 2 U.S.C. § 437g(a)(4). Please submit any factual or legal materials you believe are relevant to the Commission's consideration of this matter. Where appropriate, statements or explanations should be made under oath.

The Commission is under a duty to investigate this matter expeditiously. Therefore, your response should be submitted within ten days after your receipt of this notification. Failure to do so may require the Commission to act on the information available to it. If you intend to be represented by counsel in this matter, please have such counsel notify us in writing.

This letter will remain confidential in accordance with 2 U.S.C. § 437g(a)(3)(B) unless you notify the Commission in writing that you wish the investigation to be made public. If you have any questions, please contact Ms. Marsha Gentner, the attorney assigned to this matter, at (202) 523-4060.

Sincerely,

William C. Oldaker
General Counsel

810402532



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Harry Seidman
Masters, Mates & Pilots
Pensioners Action Fund
1019 19th Street, N.W.
Suite 500
Washington, D.C. 20036

Re: MUR 773 (78)

Dear Mr. Seidman:

The Federal Election Commission has found reason to believe that the Masters, Mates and Pilots Pensioners Action Fund ("the PAF") has violated the Federal Election Campaign Act of 1971, as amended. Specifically, the Commission has found reason to believe the PAF may have violated 2 U.S.C. § 441b(b)(4)(A)(ii) by soliciting contributions to the PAF from those who were not members of the IOMMP. 2 U.S.C. § 441b(b)(4)(A)(ii) prohibits the separate fund established by a labor organization from soliciting contributions from those who are not members of the labor organization. The Commission has also found reason to believe the PAF violated 11 CFR 114.5(a)(2) by soliciting a 3% contribution without informing those solicited of their opportunity to contribute more or less than that amount. 11 CFR 114.5(a)(2) requires a solicitation for contributions to a segregated fund which has a guideline for the amount of the contribution to the fund to inform the person solicited that the guideline is just a suggested one and that more or less may be contributed.

Under the Act, you have an opportunity to demonstrate why no action should be taken against you. 2 U.S.C. § 437g(a)(4). Please submit any factual or legal materials you believe are relevant to the Commission's consideration of this matter. Where appropriate, statements or explanations should be made under oath.

The Commission is under a duty to investigate this matter expeditiously. Therefore, your response should be submitted within ten days after your receipt of this notification. Failure to do so may require the Commission to act on the information available to it. If you intend to be represented by counsel in this matter, please have such counsel notify us in writing.

This letter will remain confidential in accordance with 2 U.S.C. § 437g(a)(3)(B) unless you notify the Commission in writing that you wish the investigation to be made public. If you have any questions, please contact Ms. Marsha Gentner, the attorney assigned to this matter, at (202) 523-4060.

Sincerely,

William C. Oldaker
General Counsel

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FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Pietro Mazzai
Masters, Mates & Pilots Political
Contribution Fund
150 Broadway
New York, New York 10038

Re: MUR 773 (78)

Dear Mr. Mazzai:

The Federal Election Commission has found reason to believe that the Masters, Mates & Pilots Political Contribution Fund ("the PCF") has violated the Federal Election Campaign Act of 1971, as amended. Specifically, the Commission has found reason to believe the PCF may have violated 2 U.S.C. § 441b(b)(4)(A)(ii) by soliciting contributions to the PCF from those who are not members of the IOMMP. 2 U.S.C. § 441b(b)(4)(A)(ii) prohibits the separate segregated fund established by a labor organization from soliciting contributions from those who are not members of the labor organization. The Commission has also found reason to believe the PCF violated 11 CFR 114.5(a)(2) by soliciting a 2% contribution without informing those solicited of their opportunity to contribute more or less than that amount. 11 CFR 114.5(a)(2) requires a solicitation for contributions to a segregated fund which has a guideline for the amount of the contribution to the fund to inform the person solicited that the guideline is just a suggested one and that more or less may be contributed.

Under the Act, you have an opportunity to demonstrate why no action should be taken against you. 2 U.S.C. § 437g(a)(4). Please submit any factual or legal materials you believe are relevant to the Commission's consideration of this matter. Where appropriate, statements or explanations should be made under oath.

The Commission is under a duty to investigate this matter expeditiously. Therefore, your response should be submitted within ten days after your receipt of this notification. Failure to do so may require the Commission to act on the information available to it. If you intend to be represented by counsel in this matter, please have such counsel notify us in writing.

This letter will remain confidential in accordance with 2 U.S.C. § 437g(a)(3)(B) unless you notify the Commission in writing that you wish the investigation to be made public. If you have any questions, please contact Ms. Marsha Gentner, the attorney assigned to this matter, at (202) 523-4060.

Sincerely,

William C. Oldaker
General Counsel

8104525951



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

MEMORANDUM TO CHARLES STEELE
FROM: MARJORIE W. EMMONS *mwe*
DATE: JANUARY 11, 1979
SUBJECT: MUR 773 (78) - Interim Investigation
Report dated January 1, 1979
Received in OCS 1-10-79, 11:03

The above-named document was circulated on a 24 hour no-objection basis at 2:30, January 10, 1979.

The Commission Secretary's Office has received no objections to the Interim Investigation Report as of 3:30, this date.

81040053952

January 10, 1979

MEMORANDUM TO: Marge E. Mone
FROM: Elissa T. Barr
SUBJECT: MUR 773

Please have the attached Intefim Investigation
Report distributed to the Commission on a 24 hour
no-objection basis.

Thank you.

81040253953

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

In the Matter of)
)
Masters, Mates, and Pilots)
Pensioners Action Fund)

20 JAN 10 11:03
MUR 773 (78)

INTERIM INVESTIGATION REPORT

This MUR involves policy questions raised by the Audit Division concerning the audit for cause of the Masters, Mates and Pilots Pensioners Action Fund ("the PAF"). Currently, there are similar matters in the General Counsel's Office that are still unresolved. Therefore, this Office will wait before presenting any recommendations until such time as the staff members have coordinated their efforts on these issues and are able to present a cohesive determination for the Commission's consideration.

1 January 1979
Date


William E. Oldaker
General Counsel *fwco*

81040052954

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT
FILED
JUN 27 1977
S. D. OF N. Y.

JOHN E. FIELDS, JAMES F. MERRELL, and
PETER MAZZIE, as Pensioners and
Beneficiaries of the Masters, Mates and
Pilots Pension Plan and individually
and as members of a class action for
members and beneficiaries of the class,
who are also pensioners of the Masters,
Mates and Pilots Pension Plan and members
of the M. M. & P. Pensioners Action Fund
and those similarly situated, and as
Trustees of the M. M. & P. Pensioners
Action Fund,

Plaintiffs

-against-

M. M. & P. PENSION PLAN, and STEPHEN
MAHER, Pension Plan Administrator,

Defendants.

ANSWER
77 Civ. 2077
(CMM)

Defendants, M. M. & P. Pension Plan and Stephen
Maher, Pension Plan Administrator, by their attorney,
Marvin Schwartz, allege as follows:

1. Deny knowledge or information sufficient to
form a belief as to the truth of the allegations contained
in Paragraph 1 of the Complaint.
2. Admit the allegations contained in Paragraph 2
of the Complaint.
3. Deny the allegations contained in Paragraph 3
of the Complaint.
4. Admit the allegations contained in Paragraph 4
of the Complaint.
5. Deny knowledge or information sufficient to
form a belief as to the truth of the allegations contained

1048 1 124
CONFIDENTIAL

in Paragraph 5 of the Complaint.

6. Admit the allegations contained in Paragraph 6 of the Complaint.

7. Deny the allegations contained in Paragraph 7 of the Complaint.

8. Deny the allegations contained in Paragraph 8 of the Complaint.

9. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9 of the Complaint.

10. Admit the allegations contained in Paragraph 10 of the Complaint.

11. Deny the allegations contained in Paragraph 11 of the Complaint.

12. Admit that from 1970 to January, 1976, all monies deducted by the Administrator of the M. M. & P. Pension Trust Fund pursuant to signed authorization, as set forth in Paragraph 10 of the Complaint, were paid over to the Pensioners Action Fund.

13. Deny the allegations contained in Paragraph 13 of the Complaint, but admit that the monies deducted by the Administrator of the M. M. & P. Pension Plan pursuant to signed authorization, have, since February, 1976, been paid into an interest bearing escrow account.

14. Deny the allegations contained in Paragraph 14 of the Complaint, but admit that the letter, Exhibit "C" of the Complaint, was sent out on behalf of the Political Contribution Fund.

15. Admit the allegations contained in Paragraph 15 of the Complaint.

16. Admit the allegations contained in Paragraph 16 of the Complaint.

17. Admit that Article II, Section 2 of the Trust Instrument of the Political Contribution Fund provides that:

"There is hereby created a Board of Trustees consisting of nine persons, who shall include ex officio the International President, International Executive Vice President and International Secretary-Treasurer of the MM&P, the Regional Directors of the two Regions of the Inland Division of the MM&P, the President of the Pilots Division of the MM&P, and three retired members of the MM&P who are geographically representative and who receive pensions under any MM&P Pension Plan . . ."

18. Deny knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 18 of the Complaint.

19. Deny the allegations contained in Paragraph 19 of the Complaint, but admit that in August, 1976, the Trustees of the MM&P Pension Plan amended the Trust Instrument and that Section 6(a)(iii) and (iv) are set forth in Paragraph 19 of the Complaint.

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20. Admit the allegations contained in Paragraph 20 of the Complaint.

21. Deny the allegations contained in Paragraph 21 of the Complaint.

22. Deny the allegations contained in Paragraph 22 of the Complaint.

23. Deny the allegations contained in Paragraph 23 of the Complaint as improper pleadings and allege that the Regulation speaks for itself.

24. Deny the allegations contained in Paragraph 24 of the Complaint.

25. Deny the allegations contained in Paragraph 25 of the Complaint and allege that the assets of the Pensioners' Action Fund have, in fact, not been used solely for the benefit of the pensioners.

26. Deny the allegations contained in Paragraph 26 of the Complaint.

27. Deny the allegations contained in Paragraph 27 of the Complaint and deny that plaintiffs are entitled to any such relief.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

28. The Complaint fails to state a claim against defendants upon which relief can be granted.


6 1 0 1 0 2 5 3 9 5

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

29. Defendants allege that a serious legal question exists as to the propriety of the continuance of the checkoff arrangement and the payment of the escrow fund to the plaintiffs.

WHEREFORE, defendants demand judgment dismissing the Complaint together with the costs and disbursements of this action.

Dated: New York, New York
June 22, 1977


MARVIN SCHWARTZ
Attorney for the Defendants
243 Waverly Place
New York, New York 10014
[212] 691-2250

8 1 0 1 0 2 5 1 2 6 0

MUR 773

MM&P PENSIONERS ACTION FUND

THIS AGREEMENT AND DECLARATION OF TRUST, made and entered into this 7th day of October, 1974, by and between William P. Fitzpatrick, of Lake Worth, Florida, and Harry Seidman, of New York, New York (hereinafter designated the "Grantors"); and William P. Fitzpatrick, of Lake Worth, Florida, John E. Fields, of Airville, Pennsylvania, Pietro Mazzai, of East Meadow, New York, James F. Merrill, of Houston, Texas, and Howard H. Williams, of Summerville, South Carolina (hereinafter designated the "Trustees").

W I T N E S S E T H :

WHEREAS, since July, 1970, Grantors have been administering a fund consisting entirely of voluntary contributions from retired members of the International Organization of Masters, Mates and Pilots (IOMM&P) for purposes of furthering the political and general interests of such pensioners; and

WHEREAS, Grantors desire to broaden the purposes and basis of the fund which they have been administering; and

WHEREAS, Grantors believe that the interests of the beneficiaries of said fund would be better served by establishing a formal document creating a successor fund and establishing a definitive structure for the administration of said fund;

NOW, THEREFORE, for and in consideration of the premises and of the mutual covenants and agreements herein contained, the Grantors hereby establish the MM&P Pensioners Action Fund subject to the trust and conditions herein imposed, and the Trustees declare that they will receive and hold the contributions and any other money or property which may come

EXHIBIT B

- 2 -

into their hands as Trustees (all such contributions, money and property being hereinafter designated as the "Trust Fund"), with the powers and duties, uses and purposes as hereinafter set forth:

ARTICLE I. Definitions.

Section 1. The term "union" shall mean the International Organization of Masters, Mates and Pilots, also known as the International Marine Division of the International Longshoremen's Association, AFL-CIO, and all of its divisions and subordinate bodies, together with such other unions or organizations as the Trustees in their sole discretion may find acceptable.

Section 2. The term "Trustees" shall mean the Trustees designated in this Agreement and Declaration of Trust, together with their successors designated and appointed in accordance with the terms of this Agreement and Declaration of Trust.

Section 3. The term "Trust Fund" shall refer to all property of whatever nature which is owned by said Trust at the time of its creation or which shall be contributed to the Trustees or any of them from whatever source for the purposes stated herein; provided, however, that the Trust Fund shall include only such property as may be voluntarily given to the Trustees or any of them and shall not at any time include any property which is required to be given by any provision of law, governmental regulation, assessment, union constitution, agreement, by-law or resolution.

Section 4. The term "Board" shall mean the Trustees acting together by majority vote or as otherwise provided in Article II, Section 3 of this Agreement and Declaration of Trust.

Section 5. The term "contributions" shall mean any payment of money or property to the Trustees or any of them by any person, corporation, association, trust or group which is wholly voluntary and is given for any of the purposes of this Agreement and Declaration of Trust.

ARTICLE II. Creation of Trust and Board.

Section 1. Grantors hereby create and establish with the Trustees a trust to be known as the MM&P Pensioners Action Fund, whose assets shall consist of the property initially derived from the Grantors, together with any and all investments, contracts or other sums payable to the Grantors and any and all funds which shall come into the possession of the Trustees or any of them for incorporation in this Trust, and which shall be received and held by the Trustees for the uses, purposes and trusts set forth in this Agreement and Declaration of Trust.

Section 2. There is hereby created a Board of Trustees consisting of five persons. The Board shall elect a Chairman. All decisions shall be made by a majority vote of the Trustees present and voting at any meeting of the Board except as provided under Section 3 herein. A quorum of the Board shall consist of three members. At least three members of the Board shall be retired members of the International Organization of Masters, Mates and Pilots who receive pensions under the IOMM&P Pension Plan.

Section 3. Any action may be taken in the name of the Board and with full power and authority of the Board by the Chairman or his designee Trustee and one other member if such action is recorded in writing and signed by the Chairman or his designee Trustee and such other Trustee and if the Chairman or his designee Trustee states in writing that it is impracticable for reasons of time, expediency or other emergent considerations to submit the matter to a meeting of the full Board. ✓

Section 4. The day-to-day administration of the affairs of the Board shall be in the hands of a Treasurer designated by the Board and under the direct supervision of the Chairman. The Treasurer or his assistant may be authorized by the Board to sign documents, reports, correspondence and memoranda in behalf of the Board or otherwise act in its behalf.

Section 5. In case of any vacancy in the Board of Trustees by death, legal incapacity, resignation or otherwise, the remaining Trustees by majority vote shall designate a successor Trustee, but in the event the remaining Trustees cannot agree, the Treasurer shall be entitled to a vote in designating a successor Trustee. Any Trustee may resign upon tendering ten days' written notice to the remaining Trustees.

Section 6. Any Trustee may be removed by a majority vote of the remaining Trustees.

Section 7. No successor Trustee shall be liable or responsible for any acts, omissions or defaults of any co-Trustee or predecessor Trustee or for any loss or expenses resulting from or occasioned by anything done or neglected to be done in the administration of the Trust Fund nor be required to inquire into or take any notice of the prior administration of the Trust Fund.

Section 8. The Board shall establish a headquarters office for the Trust Fund in Washington, D.C. for the transaction of the business of the Trust Fund. At such office there shall be maintained the books and records pertaining to the Fund and its administration. Other offices of the Fund may be established from time to time as the Board may deem necessary.

ARTICLE III. Powers and Duties of Trustees.

Section 1. The Trustees shall have general supervision of the operation of the Trust and shall conduct the business and activities of the Trust according to this Trust Agreement.

Section 2. The Trustees shall hold, manage, care for, and protect the Trust Fund and collect the income therefrom and contributions thereto.

Section 3. (a) The Trustees shall have the power, in their sole discretion, to invest and reinvest the principal and income of the Trust Fund in such securities, common and preferred stock, mortgages, notes, real

estate or other property as shall be permissible investment for Trustees in the District of Columbia and may sell or otherwise dispose of such securities or property at any time and from time to time as they see fit. The Trustees shall also have power (in addition to and not in limitation of common law and statutory authority) to invest in any stocks, bonds, or other property, real or personal, held by them as Trustees, all such rights, powers and privileges as might be lawfully exercised by any person owning similar stocks, bonds or other property in his own right.

(b) The Trustees may delegate to any corporation, authorized by law to act in a trust or fiduciary capacity, such duties and responsibilities with respect to Trust assets, including the responsibility to invest and re-invest such assets, as they shall specify in such delegation. In connection with any such delegation, the Trustees may also delegate to any such corporation the right to custody and possession of the Trust assets, or any part thereof. The Trustees, acting in good faith, shall not be liable for any act or omission of the corporation in the discharge of the duties delegated to it. In investing trust assets, the corporation shall be permitted to make the same investments as the Trustees and exercise the same judgment. The corporation shall be liable for its own negligence, omissions, unauthorized acts, defaults and any other breaches of trust, and for those of any officer or employee appointed by or acting for said corporation in carrying out duties and responsibilities with respect to trust assets. Any such corporation shall receive such reasonable compensation, chargeable against the funds delivered to it, as shall be agreed upon with the Trustees. Any such delegation may be revoked at any time by notice in writing to the corporation. Any such corporation may resign any such delegated authority at any time by ten days' notice in writing to the Trustees.

Section 4. All Trust Funds not invested shall be deposited by the Trustees in such depository or depositories as the Trustees shall from time

to time select, and any such deposit or deposits shall be made in the name of the Trust. No Trustee shall be liable in any manner for the failure of any depository selected by the Trustees in good faith and in the exercise of their reasonable business judgment.

Section 5. The Trustees shall keep true and accurate books of account and a record of all their transactions, meetings, and the actions taken at such meetings or by informal action of the Trustees or pursuant to Article II, Section 3 hereof.

Section 6. The Trustees shall undertake to obtain an annual financial report of the books of the Trust by an independent Certified Public Accountant not less frequently than once a year. Such report shall be reviewed by the Trustees at the next Board meeting following submission of the report, and a copy of such report shall be kept available for inspection by authorized persons during business hours at the office of the Trustees.

Section 7. All checks, drafts, vouchers or other withdrawals of funds from the Trust Fund shall be signed by two Trustees, or by a Trustee and the Treasurer, Assistant Treasurer or other designee of the Board; provided, however, that the Trustees may establish a special bank account of limited amount out of which expenses of operation of the Trust may be paid on the signature of a Trustee, the Treasurer, Assistant Treasurer or a duly authorized employee of the Trust.

Section 8. The Trustees shall incur no liability in acting upon any instrument, application, notice, request, signed letter, telegram, or other paper or document believed by them to be genuine and to contain a true statement of facts, and to be signed or sent by the proper person.

Section 9. Any Trustee may rely upon any instrument in writing purporting to have been signed by a majority of the Trustees as conclusive evidence of the fact that a majority of the Trustees have taken the action

stated to have been taken in such instrument and may rely upon any instrument in writing purporting to have been signed by the Chairman of the Board or his designee Trustee and another Trustee as conclusive evidence of the fact that they are authorized to act under authority of Article II, Section 3 of this Agreement and Declaration of Trust, provided that such instrument contains the declaration by the Chairman of the Board or his designee Trustee required by said Section.

Section 10. No Trustee shall be liable for any action taken or omitted to be taken by him in good faith, nor for the wrongful acts of any agent, employee or attorney selected by the Trustees with reasonable care, nor for any such act of commission or omission of any other Trustee.

Section 11. The Trustees are hereby authorized to formulate and promulgate any and all necessary rules and regulations which they deem necessary or desirable to facilitate the proper administration of the Trust. All rules and regulations adopted by majority action of the Trustees for the administration of the Trust Fund shall be binding upon all parties hereto, all parties dealing with the Trust, and all persons claiming any benefits hereunder.

Section 12. Any successor Trustee appointed in accordance with the provisions of this Agreement, upon accepting in writing the terms of this Trust, shall be vested with all of the rights, powers and duties of his predecessor.

Section 13. No party dealing with the Trustees shall be obligated (a) to see to the application to the trust purposes, herein stated, of any money or property belonging to the Trust Fund, or (b) to see that the terms of this Agreement have been complied with, or (c) to inquire into the necessity or expediency of any act of the Trustees. Every instrument executed by the Trustees shall be conclusive evidence in favor of every person relying thereon (a) that at the time of the delivery of said instrument the Trust was

in full force and effect, (b) that the instrument was executed in accordance with the terms and conditions of this Agreement, and (c) that the Trustees were duly authorized and empowered to execute the instrument.

Section 14. The written receipt of the Trustees or any of them for any money or property or checks (after such checks are honored at the bank and paid to the Trust Fund) shall discharge the person or persons paying or transferring the same.

Section 15. The Trustees are hereby empowered, in addition to such other powers as are set forth herein or conferred by law:

(a) To enter into any and all contracts and agreements for carrying out the terms of this Agreement and Declaration of Trust and for the administration of the Trust Funds, and to do all acts as they, in their discretion, may deem necessary or advisable, and such contracts and agreements and acts shall be binding and conclusive on the parties hereto and on the employees involved. These powers shall include, but not be limited to, the employment or retainer of such employees, consultants, legal counsel, accountants and advisers as they deem necessary.

(b) To keep property and securities registered in the name of the Trustees or in the name of a nominee or nominees or in unregistered or bearer form without disclosure of any fiduciary relationship.

(c) To establish and accumulate as part of the Trust Fund a reserve or reserves, adequate, in the opinion of the Trustees, to carry out the purposes of such Trust.

(d) To pay out of the funds of the Trust all real and personal, property taxes, income taxes, and other taxes of any and all kinds levied or assessed under existing or future laws upon or in respect to the Trust Fund, or any money, property, or securities forming a part thereof.

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(e) To do all acts, whether or not expressly authorized herein, which the Trustees may deem necessary or proper for the protection of the property held hereunder.

(f) To sell, exchange, lease, convey, mortgage or dispose of any property, whether real or personal, at any time forming a part of the Trust Fund upon such terms as they may deem proper, and to execute and deliver any and all instruments of conveyance, lease, mortgage and transfer in connection therewith.

Section 16. The Trustees, officers and employees shall be reimbursed for all out-of-pocket expense incurred in behalf of the Trust, and the Trustees shall be compensated for services performed for the Trust, including attendance at meetings of the Board, at a per diem rate equal to the gross per diem earnings under the then current IOMM&P contract for Class A Master.

Section 17. The Trustees shall use and apply the Trust Fund for the following purposes:

(a) To make or provide for the payment of (1) all reasonable and necessary expenses of collecting the contributions and administering the affairs of this Trust, including the employment of such administrative, legal, accounting, actuarial, expert, and clerical assistance as may be reasonably necessary, (2) the purchasing, owning or leasing of such premises as may be necessary for the operation of the affairs of the Trust, and (3) the purchase or leasing of such materials, supplies and equipment as the Board, in its discretion, finds necessary or appropriate to the performance of its duties.

(b) With respect to any activity that furthers the purposes of this Trust as stated in Article IV hereof, to prepare, commission, purchase, reproduce and distribute written materials; to sponsor, support and administer seminars, conferences and meetings; to educate, train or inform retired

pensioned members of the Union, active members of the Union, or those in a position to aid such members or pensioned members in matters related to the purposes of this Trust; to make political contributions in support of elected governmental officials who it is deemed by the Trustees will support and further these purposes; and to engage in any related activity that furthers such purposes.

Section 18. Notwithstanding any other provision herein, neither the Trustees nor any of them, nor any officer or employee of the Trust shall be authorized to engage in any agreement, arrangement or understanding with the Trust, any Trustee or officer or employee authorized to act for the Trust that violates any law or regulation in a manner that jeopardizes the privileged status of the Trust under any provision of the Internal Revenue Code or the election laws of the United States.

Section 19. The Trustees shall have the power to construe the provisions of this Agreement and the terms and regulations of this Trust; and any construction adopted by the Trustees in good faith shall be binding upon all other persons.

Section 20. The Trustees, by resolution, may provide for fidelity bonds, in such amounts as they may determine, for their employees and for the Trustees, the cost of which shall be paid by the Fund. The Trustees may purchase insurance coverage to protect themselves individually from liability arising out of any error or omission of any Trustee or employee of the Trust, the cost of which shall be paid by the Fund.

Section 21. For purposes of this Article the term "Trustees" shall include the "Board."

ARTICLE IV. Purposes.

The purposes of this Trust shall be:

- (1) To preserve, foster and improve the economic and social welfare of retired pensioned members of the Union; to increase their

self-appreciation and esprit as retired members of the United States' fourth branch of military service;

(2) To provide for retired pensioned members of the Union political, economic and social benefits related to their past service in the United States Merchant Marine and associated endeavors;

(3) To support, foster and improve generally the wellbeing of the United States maritime industry, its employees and related industries and persons;

(4) To create a better understanding and appreciation among government officials, the maritime service and the general public of the benefits accruing to the United States and its people from a strong and economically healthy United States maritime industry and continuously to improve such understanding and appreciation;

(5) To encourage and support elected governmental officials, or those seeking elected governmental office, who are best judged to appreciate and best considered actively to support the foregoing principles.

ARTICLE V. Amendment of Agreement.

It is anticipated that in the administration of this Trust conditions may arise that are not foreseen at the time of the execution of this Agreement and it is the intention of the Parties that the power of amendment, which is hereinafter given, be exercised in order to carry out the provisions of this Trust. Therefore, the power is given to the Trustees to amend this Agreement by majority vote, at any time and from time to time, and all parties to the Trust and all persons claiming an interest thereunder shall be bound thereby. No member, retired pensioned member, employee, beneficiary, official, or any other person shall have any vested interest or right in the Trust Fund or in any payment from the Trust Fund, and the Trustees have full authority to amend, repeal, add to, or take away any right of payment, retroactively or otherwise, that they deem proper for the preservation of this Trust;

providing, however, in no event shall the Trust Fund be used for any purpose other than the purposes set forth in this Trust Agreement, and for the purposes of paying the necessary expenses incurred in the administration of this Trust. All amendments to this Agreement shall comply with the applicable sections of the Internal Revenue Code and other provisions of law relating to elections and political contributions. If at any time the Trustees shall deem by majority vote that this Trust should cease, they may liquidate all assets, fulfill all outstanding obligations and then discontinue the existence of this Trust provided that all obligations are paid and all remaining funds are first expended in furtherance of the purposes of this Trust.

ARTICLE VI. Saving Clause.

Should any provision of this Declaration of Trust be held to be unlawful, or unlawful as to any person or instance, such fact shall not adversely affect the other provisions herein contained or the application of said provisions to any other person or instance, unless such illegality shall make impossible the functioning of the plan. No Trustees shall be held liable for any act done or performed in pursuance of any provision hereof prior to the time such act or provisions shall be held unlawful by a court of competent jurisdiction.

IN WITNESS WHEREOF, the Grantors and the Trustees, in order to evidence the acceptance of the Trust hereby imposed have caused this

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ement and Declaration of Trust to be executed this 7th day of October,
t, and have subscribed hereunder their signatures and set their seals.

William P. Fitzpatrick (SEAL)
William P. Fitzpatrick

Harry Seidman (SEAL)
Harry Seidman

William P. Fitzpatrick (SEAL)
William P. Fitzpatrick

John E. Fields (SEAL)
John E. Fields

Pietro Mazzai (SEAL)
Pietro Mazzai

James F. Merrill (SEAL)
James F. Merrill

Howard H. Williams (SEAL)
Howard H. Williams

1010150973 MVR 773
MM&P POLITICAL CONTRIBUTION FUND

THIS AGREEMENT AND DECLARATION OF TRUST, made and entered into this _____ day of _____, 1976, by and between Frank T. Scavo, of New York, New York, President, International Organization of Masters, Mates and Pilots, Orion A. Larson, of San Francisco, California, Chairman, Board of Trustees of the Pension Plan (MM&P Pension Plan), and Harry Seidman, of New York, New York, Comptroller of the International Organization of Masters, Mates and Pilots (hereinafter designated the "Grantors"); and Frank T. Scavo, Gerald L. Johnson, Robert J. Lowen, Alan C. Scott, David A. Boyle, Robert O. Elsensohn, Peter D. Fay, Henderson H. Hagler, and Elmer Alford (hereinafter designated the "Trustees").

WITNESSETH:

WHEREAS, since July, 1970, the MM&P Pension Plan (a trust fund) has been collecting and remitting to a separate trust fund or trust funds proceeds consisting entirely of voluntary contributions from retired pensioned members of the International Organization of Masters, Mates and Pilots (MM&P) for purposes of furthering the political and general interests of such pensioners; and

WHEREAS, Grantors or their predecessors in interest have assisted in said administration and collection; and

WHEREAS, Grantors desire to broaden the purposes and basis of the aforesaid trusts which they have been assisting; and

WHEREAS, Grantors desire to bring such trust funds under more direct control of the MM&P while at the same time maintaining the voluntary nature of contributions to this fund; and

WHEREAS, Grantors believe that the interests of the beneficiaries of said fund would be better served by establishing a new document creating

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a successor fund and establishing a definitive structure for the administration and control of said successor fund for the benefit of all members of the MM&P, past, present and future,

NOW, THEREFORE, for and in consideration of the premises and of the mutual covenants and agreements herein contained, the Grantors hereby establish the MM&P Political Contribution Fund subject to the trust and conditions herein imposed, and the Trustees declare that they will receive and hold the contributions and any other money or property which may come into their hands as Trustees (all such contributions, money and property being hereinafter designated as the "Trust Fund"), with the powers and duties, uses and purposes as hereinafter set forth:

ARTICLE I. Definitions.

Section 1. The term "union" shall mean the International Organization of Masters, Mates and Pilots (MM&P), also known as the International Marine Division of the International Longshoremen's Association, AFL-CIO, and all of its divisions and subordinate bodies, together with such other unions or organizations as the Trustees in their sole discretion may find acceptable.

Section 2. The term "Trustees" shall mean the Trustees designated in this Agreement and Declaration of Trust, together with their successors designated and appointed in accordance with the terms of this Agreement and Declaration of Trust.

Section 3. The term "Trust Fund" shall refer to all property of whatever nature which is owned by said Trust at the time of its creation or which shall be contributed to the Trustees or any of them from whatever source for the purposes stated herein; provided, however, that the Trust Fund shall include only such property as may be voluntarily given to the Trustees or any of them and shall not at any time include any property

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which is required to be given by any provision of law, governmental regulation, assessment, union constitution, agreement, by-law or resolution; provided further, however, that the Trust Fund shall also include, whether by operation of law, court order or otherwise, all funds previously contributed voluntarily to the MM&P Pensioners Action Fund, predecessor trust of this Trust, and so contributed to any predecessor of said MM&P Pensioners Action Fund.

Section 4. The term "Board" shall mean the Trustees acting together by majority vote or as otherwise provided in Article II, Section 3 of this Agreement and Declaration of Trust.

Section 5. The term "contributions" shall mean any payment of money or property to the Trustees or any of them by any person, corporation, association, trust or group which is wholly voluntary and is given for any of the purposes of this Agreement and Declaration of Trust.

ARTICLE II Creation of Trust and Board.

Section 1. Grantors hereby create and establish with the Trustees a trust to be known as the MM&P Political Contribution Fund, whose assets shall consist of the property initially derived from the Grantors, including the funds of the MM&P Pensioners Action Fund, together with any and all investments, contracts or other sums payable to the Grantors, any and all contributions to this Fund and any other funds which shall come into the possession of the Trustees or any of them for voluntary incorporation in this Trust, and which shall be received and held by the Trustees for the uses, purposes and trusts set forth in this Agreement and Declaration of Trust.

Section 2. There is hereby created a Board of Trustees consisting of nine persons, who shall include ex officio the International President, International Executive Vice President and International Secretary-Treasurer of the MM&P, the Regional Directors of the two Regions of the Inland

Division of the MM&P, the President of the Pilots Division of the MM&P, and three retired members of the MM&P who are geographically representative and who receive pensions under any MM&P Pension Plan; the incumbency of ex officio Trustees shall depend upon their holding of elected office in the MM&P, subject however to the removal provisions of Section 6 of this Article.

Section 3. Any action may be taken in the name of the Board and with full power and authority of the Board by the Chairman or his designee Trustee and one other member if such action is recorded in writing and signed by the Chairman or his designee Trustee and such other Trustee and if the Chairman or his designee Trustee states in writing that it is impracticable for reasons of time, expediency or other emergent considerations to submit the matter to a meeting of the full Board.

Section 4. The day-to-day administration of the affairs of the Board shall be in the hands of a Treasurer designated by the Board and under the direct supervision of the Chairman. The Treasurer or his assistant may be authorized by the Board to sign documents, reports, correspondence and memoranda in behalf of the Board or otherwise act in its behalf.

Section 5. In case of any vacancy in the Board of Trustees by death, legal incapacity, removal from office, resignation or otherwise, the remaining Trustees by majority vote shall designate an interim successor Trustee, but in the event the remaining Trustees cannot agree, the Chairman shall designate an interim successor Trustee. A permanent successor Trustee shall, if he is an ex officio Trustee, qualify as Trustee upon his entry into office as an International Officer of the MM&P, or as one of the other Officers of the subordinate bodies of the MM&P heretofore set forth; if he is a pensioner Trustee or replacement for a removed ex officio Trustee, he shall qualify only upon approval by a majority vote of the General Executive Board of the union or its successor. Any Trustee may resign upon

tendering ten days' written notice to the remaining Trustees. Upon the leaving of union office of any ex officio Trustee, he shall cease to be a Trustee.

Section 6. Any Trustee may be removed by a majority vote of the remaining Trustees; except that in the case of an ex officio Trustee such removal shall not be effective unless and until approved by a majority vote of the union's General Executive Board.

Section 7. No successor Trustee shall be liable or responsible for any acts, omissions or defaults of any co-Trustee or predecessor Trustee or for any loss of expenses resulting from or occasioned by anything done or neglected to be done in the administration of the Trust Fund.

Section 8. The Board shall establish a headquarters office for the Trust Fund in Washington, D. C. for the transaction of the business of the Trust Fund. At such office there shall be maintained the books and records pertaining to the Fund and its administration. Other offices of the Fund may be established from time to time as the Board may deem necessary.

ARTICLE III. Powers and Duties of Trustees.

Section 1. The Trustees shall have general supervision of the operation of the Trust and shall conduct the business and activities of the Trust according to this Trust Agreement.

Section 2. The Trustees shall hold, manage, care for, and protect the Trust Fund and collect the income therefrom and contributions thereto.

Section 3. (a) The Trustees shall have the power, in their sole discretion, to invest and reinvest the principal and income of the Trust Fund in such securities, common and preferred stock, mortgages, notes, real estate or other property as shall be permissible investment for Trustees in the District of Columbia and may sell or otherwise dispose of such securities or property at any time and from time to time as they see fit.

The Trustees shall also have power (in addition to and not in limitation of common law and statutory authority) to invest in any stocks, bonds, or other property, real or personal, held by them as Trustees, all such rights, powers and privileges as might be lawfully exercised by any person owning similar stocks, bonds or other property in his own right.

(b) The Trustees may delegate to any corporation authorized by law to act in a trust or fiduciary capacity, such duties and responsibilities with respect to Trust assets, including the responsibility to invest and re-invest such assets, as they shall specify in such delegation. In connection with any such delegation, the Trustees may also delegate to any such corporation the right to custody and possession of the Trust assets, or any part thereof. The Trustees, acting in good faith, shall not be liable for any act or omission of the corporation in the discharge of the duties delegated to it. In investing trust assets, the corporation shall be permitted to make the same investments as the Trustees and exercise the same judgment. The corporation shall be liable for its own negligence, omissions, unauthorized acts, defaults and any other breaches of trust, and for those of any officer or employee appointed by or acting for said corporation in carrying out duties and responsibilities with respect to trust assets. Any such corporation shall receive such reasonable compensation, chargeable against the funds delivered to it, as shall be agreed upon with the Trustees. Any such delegation may be revoked at any time by notice in writing to the corporation. Any such corporation may resign any such delegated authority at any time by ten days' notice in writing to the Trustees.

Section 4. All Trust funds not invested or expended shall be deposited by the Trustees in such depository or depositories as the Trustees shall from time to time select, and any such deposit or deposits shall be made in the name of the Trust. No Trustee shall be liable in any manner for the failure of any depository selected by the Trustees in good faith and in the exercise of their reasonable business judgment.

Section 5. The Trustees shall keep true and accurate books of account and a record of all their transactions, meetings, and the actions taken at such meetings or by informal action of the Trustees or pursuant to Article II, Section 3 hereof.

Section 6. The Trustees shall obtain an annual financial report of the books of the Trust by an independent Certified Public Accountant not less frequently than once a year. Such report shall be reviewed by the Trustees at the next Board meeting following submission of the report, and a copy of such report shall be kept available for inspection by authorized persons, including any contributor to the Fund, during business hours at the office of the Trustees.

Section 7. All checks, drafts, vouchers or other withdrawals of funds from the Trust Fund shall be signed by two Trustees, or by a Trustee and the Treasurer, Assistant Treasurer or other designee of the Board; provided, however, that the Trustees may establish a special bank account of limited amount out of which expenses of operation of the Trust may be paid on the signature of a Trustee, the Treasurer, Assistant Treasurer, or a duly authorized employee of the Trust.

Section 8. The Trustees shall incur no liability in acting upon any instrument, application, notice, request, signed letter, telegram, or other paper or document believed by them to be genuine and to contain a true statement of facts, and to be signed or sent by the proper person.

Section 9. Any Trustee may rely upon any instrument in writing purporting to have been signed by a majority of the Trustees as conclusive evidence of the fact that a majority of the Trustees have taken the action stated to have been taken in such instrument and may rely upon any instrument in writing purporting to have been signed by the Chairman of the Board or his designee Trustee and another Trustee as conclusive evidence of the fact that they are authorized to act under authority of Article II, Section 3

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of this Agreement and Declaration of Trust, provided that such instrument contains the declaration by the Chairman of the Board or his designee Trustee required by said Section.

Section 10. No Trustee shall be liable for any action taken or omitted to be taken by him in good faith, nor for the wrongful acts of any agent, employee or attorney selected by the Trustees with reasonable care, nor for any such act of commission or omission of any other Trustee.

Section 11. The Trustees are hereby authorized to formulate and promulgate any and all necessary rules and regulations which they deem necessary or desirable to facilitate the proper administration of the Trust. All rules and regulations adopted by majority action of the Trustees for the administration of the Trust Fund shall be binding upon all parties hereto, all parties dealing with the Trust, and all persons claiming any benefits hereunder.

Section 12. Any successor Trustee appointed in accordance with the provisions of this Agreement, upon accepting in writing the terms of this Trust, shall be vested with all of the rights, powers and duties of his predecessor.

Section 13. No party dealing with the Trustees shall be obligated (a) to see to the application to the trust purposes, herein stated, of any money or property belonging to the Trust Fund, or (b) to see that the terms of this Agreement have been complied with, or (c) to inquire into the necessity or expediency of any act of the Trustees. Every instrument executed by the Trustees shall be conclusive evidence in favor of every person relying thereon (a) that at the time of the delivery of said instrument the Trust was in full force and effect, (b) that the instrument was executed in accordance with the terms and conditions of this Agreement, and (c) that the Trustees were duly authorized and empowered to execute the instrument.

Section 14. The written receipt of the Trustees or any of them for any money or property or checks (after such checks are honored at the bank

and paid to the Trust Fund) shall discharge the person or persons paying or transferring the same.

Section 15. The Trustees are hereby empowered, in addition to such other powers as are set forth herein or conferred by law:

(a) To enter into any and all contracts and agreements for carrying out the terms of this Agreement and Declaration of Trust and for the administration of the Trust funds, and to do all acts as they, in their discretion, may deem necessary or advisable, and such contracts and agreements and acts shall be binding and conclusive on the parties hereto and on the employees involved. These powers shall include, but not be limited to, the employment or retainer of such employees, consultants, legal counsel, accountants and advisers as they deem necessary or desirable.

(b) To keep property and securities registered in the name of the Trustees or in the name of a nominee or nominees or in unregistered or bearer form without disclosure of any fiduciary relationship.

(c) To establish and accumulate as part of the Trust Fund a reserve or reserves adequate, in the opinion of the Trustees, to carry out the purposes of such Trust.

(d) To pay out of the funds of the Trust all real and personal property taxes, income taxes, and other taxes of any and all kinds levied or assessed under existing or future laws upon or in respect to the Trust Fund, or any money, property, or securities forming a part thereof.

(e) To do all acts, whether or not expressly authorized herein, which the Trustees may deem necessary or proper for the protection of the property held hereunder and for the carrying out of the stated purposes of this Trust.

(f) To sell, exchange, lease, convey, mortgage or dispose of any property, whether real or personal, at any time forming a part of the Trust Fund upon such terms as they may deem proper, and to execute and

deliver any and all instruments of conveyance, lease, mortgage and transfer in connection therewith.

Section 16. The Trustees, officers and employees shall be reimbursed for all out-of-pocket expenses incurred in behalf of the Trust.

Section 17. The Trustees shall use and apply the Trust Fund for the following purposes:

(a) To make or provide for the payment of (1) all reasonable and necessary expenses of collecting the contributions and administering the affairs of this Trust, including the employment of such administrative, legal, accounting, actuarial, expert, and clerical assistance as may be reasonably necessary, (2) the purchasing, owning, or leasing of such premises as may be necessary for the operation of the affairs of the Trust, and (3) the purchase or leasing of such materials, supplies and equipment as the Board, in its discretion, finds necessary or appropriate to the performance of its duties.

(b) With respect to any activity that furthers the purposes of this Trust as stated in Article IV hereof, to prepare, commission, purchase, reproduce and distribute written materials; to sponsor, support and administer seminars, conferences and meetings; to educate, train or inform retired pensioned members of the union, active members of the union, or those in a position to aid such members or pensioned members in matters related to the purposes of this Trust; to make political or other contributions in support of elected governmental officials who it is deemed by the Trustees will support and further these purposes; and to engage in any related activity that furthers such purposes.

Section 18. Notwithstanding any other provision herein, neither the Trustees nor any of them, nor any officer or employee of the Trust shall be authorized to engage in any agreement, arrangement or understanding with the Trust, any Trustee or officer or employee authorized to act for

the Trust that violates any law or regulation in a manner that jeopardizes the privileged status of the Trust under any provision of the Internal Revenue Code or the election laws of the United States or of any State.

Section 19. The Trustees shall have the power to construe the provisions of this Agreement and predecessor Agreements and the terms and regulations of this Trust and predecessor Trusts; and any construction adopted by the Trustees in good faith shall be binding upon all other persons.

Section 20. The Trustees, by resolution, may provide for fidelity bonds, in such amounts as they may determine, for their employees and for the Trustees, the cost of which shall be paid by the Fund. The Trustees may purchase insurance coverage to protect themselves individually from liability arising out of any error or omission of any Trustee or employee of the Trust, the cost of which shall be paid by the Fund.

Section 21. For purposes of this Article the term "Trustees" shall include the "Board."

ARTICLE IV. Purposes.

The purposes of this Trust shall be:

(1) To preserve, foster and improve the economic and social welfare of all members of the union, active, future, or retired; to increase their self-appreciation and esprit as present, future or former members of the United States' fourth branch of military service;

(2) To provide for members of the union (active, future or retired) political, economic and social benefits related to their service in the United States Merchant Marine and associated endeavors;

(3) To support, foster and improve generally the wellbeing of the United States maritime industry, its employees and related industries and persons;

(4) To create a better understanding and appreciation among government officials, the maritime service and the general public of the benefits accruing to the United States and its people from a strong and economically healthy United States maritime industry and continuously to improve such understanding and appreciation;

(5) To encourage and support elected governmental officials, or those seeking elected governmental office, who are deemed to appreciate and likely actively to support the foregoing principles.

ARTICLE V. Amendment of Agreement.

It is anticipated that in the administration of this Trust conditions may arise that are not foreseen at the time of the execution of this Agreement, and it is the intention of the Parties that the power of amendment, which is hereinafter given, be exercised in order to carry out the provisions of this Trust. Therefore, the power is given to the Trustees to amend this Agreement by majority vote, at any time and from time to time, provided at least ten days' advance written notice thereof is given to each Trustee of the intention to amend the Agreement, and all parties to the Trust and all persons claiming an interest thereunder shall be bound thereby. No member, retired pensioned member, employee, beneficiary, official, or any other person shall have any vested interest or right in the Trust Fund or in any payment from the Trust Fund, and the Trustees have full authority to amend, repeal, add to, or take away any right of payment, retroactively or otherwise, that they deem proper for the preservation of this Trust; providing, however, in no event shall the Trust Fund be used for any purpose other than the purposes set forth in this Trust Agreement, and for the purposes of paying the necessary expenses incurred in the administration of this Trust. All amendments to this Agreement shall comply with the

applicable sections of the Internal Revenue Code, the Federal Election Campaign Act, and other provisions of law relating to elections and political contributions. If at any time the Trustees shall deem by majority vote that this Trust should cease, they may liquidate all assets, fulfill all outstanding obligations and then discontinue the existence of this Trust provided that all obligations are paid and all remaining funds are first expended in furtherance of the purposes of this Trust.

ARTICLE VI. Saving Clause.

Should any provision of this Declaration of Trust be held to be unlawful, or unlawful as to any person or instance, such fact shall not adversely affect the other provisions herein contained or the application of said provisions to any other person or instance, unless such illegality shall make impossible the functioning of the plan. No Trustees shall be held liable for any act done or performed in pursuance of any provision hereof prior to the time such act or provisions shall be held unlawful by a court of competent jurisdiction.

ARTICLE VII. Counterparts.

This Trust Agreement is being executed in counterparts. Each counterpart copy of this document when signed by any of the principals shall be considered as part of the original document, and so long as all of the principals have signed any of the counterparts, such counterparts cumulatively shall constitute part of the original document. It is, therefore, not necessary that any single counterpart bear the signatures of all principal parties to this Agreement.

IN WITNESS WHEREOF, the Grantors and the Trustees, in order

11/15 - 11/15



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

MEMORANDUM TO CHARLES STEELE
FROM: MARJORIE W. EMMONS *more by fe*
DATE: NOVEMBER 15, 1978
SUBJECT: MUR 773 - First General Counsel's
Report dated 11-14-78
Received in Office of
Commission Secretary: 11-14-78,
11:06

The above-named document was circulated on a 24
hour no-objection basis at 3:30, November 14, 1978.

The Commission Secretary's Office has received
no objections to the First General Counsel's Report
as of 4:00, this date.

81040253986

November 14, 1978

MEMORANDUM TO: Marge Hanson
FROM: Elissa T. Carr
SUBJECT: MUR 773

Please have the attached First General Counsel's Report distributed to the Commission on a 24 hour no-objection basis.

Thank you.

81040253987

FEDERAL ELECTION COMMISSION

RECEIVED

OFFICE OF THE

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL NOV 14 1978
BY OGC TO COMMISSION

MUR NO. 127311: 06
STAFF MEMBER(S)

Marsha Gentner

SOURCE OF MUR: INTERNALLY GENERATED

RESPONDENT'S NAME: Masters, Mates, and Pilots Pensioners
Political Action Fund

RELEVANT STATUTE: 2 U.S.C. §§ 441a(a) and 441b(a)

INTERNAL REPORTS CHECKED: None

FEDERAL AGENCIES CHECKED: None

GENERATION OF MATTER

This matter stems from a random audit of the respondent committee.

SUMMARY OF STATUS

This matter was referred by the audit division in order to receive advice concerning the audit of the Masters, Mates, and Pilots Political Action Fund.

Because this matter presents complicated issues and involves on-going litigation in New York, the Office of General Counsel recommends further action be deferred by the Commission until such time as a more complete analysis can be made and certain necessary documents this Office is in the process of securing can be obtained.

RECOMMENDATION

Defer action for two weeks.

Attachments;
Audit Referral

3
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FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

October 20, 1978

MEMORANDUM

TO : WILLIAM OLDAKER

THROUGH : ORLANDO B. POTTER *OBP*
STAFF DIRECTOR

FROM : *JC* BOB COSTA *for* CRAIG RUSSELL *CR*

SUBJECT : MASTERS, MATES AND PILOTS PENSIONERS
ACTION FUND

During recent audit fieldwork done on the Masters, Mates and Pilots Pensioners Action Fund (PAF) we became aware of information which prompts this memo requesting guidance on certain policy questions.

Introduction

Beginning in 1970, the International Organization of Masters, Mates and Pilots (IOMMP) began soliciting voluntary contributions from its retired pensioners for a political fund. These solicitations requested the pensioners to authorize, via a reply card, the MMP Pension Fund to withhold a uniform rate of 3% from their monthly pension benefit checks for collection and transmittal to the political fund. This political fund formally established itself and registered with the U.S. House of Representatives on April 19, 1973, as the Masters, Mates and Pilots Pensioners Action Fund (PAF). The PAF statement of organization discloses the International Organization of Masters, Mates and Pilots (IOMMP) as its affiliated or connected organization and indicates its members are retired members of the IOMMP. The PAF proceeded through most of 1975 on this basis, receiving by that time approximately \$10,000 per month of voluntary 3% check off monies from IOMMP pensioners, administered and transmitted by the IOMMP pension plans. 1/

1/ Actually, the IOMMP had two (2) Pension Funds, one (1) for East and Gulf Coast pensioners based in New York, the other representing West Coast pensioners, headquartered in San Francisco.



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In late 1975 or early 1976 during union elections, a political dispute arose between factions in the union (IOMMP) leadership, resulting in the election of new IOMMP officers. As far as we are able to deduce from available information, the dispute centered around the desire of the new President of IOMMP to transform the PAF into a PAC representing both active seamen and pensioners. In contrast the former IOMMP President, responsible for forming the PAF, felt that the interests of pensioners under such a fund would not be given adequate consideration. This resulted, after the switch in IOMMP officers, in a campaign for a new political fund which was to be more broadly based in its solicitation of voluntary political contributions from active seamen/members of IOMMP, as well as pensioners. This fund registered with the Federal Election Commission on November 19, 1976, as the Masters, Mates and Pilots Political Contribution Fund (PCF), listing its connected organization as the IOMMP and indicating that "voluntary contributions are received from current and retired members of the Union."

The new IOMMP leadership instituted a uniform 2% check-off system (in contrast to PAF 3%) in an apparent attempt to persuade pensioners previously contributing to PAF to switch to PCF. The IOMMP solicited PAF pensioners to this effect, in addition to active seamen and more recently retired pensioners. The IOMMP/PCF efforts were at least partially successful and many former PAF pensioners switched their authorization over to PCF, commencing in January of 1977. The PCF has filed reports of receipts and expenditures with the Commission since that time. The PAF has also continued to file.

Apparently as a result of instructions from IOMMP officers, commencing in February of 1976 for the New York-based Pension Fund and in April for the San Francisco-based Pension Fund, all 3% monthly withholdings from PAF pensioners were retained by the Pension funds and not transmitted on to the PAF. These funds have been accumulating in accounts at both Pension funds since that time and as of June 30, 1978, the balances of PAF-withheld funds totaled \$140,360.83 and \$18,904.56 for the New York and San Francisco-based pension plans, respectively. In mid-1977, the PAF filed suit against the Pension Funds (now merged as of 6/30/78) for the release of all 3% voluntary deductions withheld from the PAF by the Pension Funds since 1976. As of the end of the initial audit fieldwork, the law suit remains pending.

A. Affiliation Issue

Within the described factual situation, the question of affiliation between the PAF and PCF arises.

As previously stated both funds have reported the IOMMP for their affiliated connected organization. In addition, to the extent that the IOMMP solicited PAF donating pensioners on behalf of the newly formed PCF, some pensioners have donated to both funds, although not at the same time, as confirmed by our partial review of PAF and PCF reports. In contrast, certain information has been made available to us which leads us to conclude that for practical purposes the PAF and PCF are not affiliated. Representatives of the New York-based Pension Fund have stated that there is no connection between the PAF and the PCF, as evidenced by the fact there are no members common to both Boards of Trustees. In addition, whereas there is an obvious connection between the PCF and present union leaders, and between present union leaders and the IOMMP Pension Fund, the PAF has claimed its independence from both the present union leadership and appears to be administratively separate from the Pension Fund which administers its check-off plan. During our audit fieldwork, as yet uncompleted, we found no evidence of transfers of funds between the PAF and the PCF.

If both PAC's are deemed affiliated by their common connected organization and overlapping membership fields (described above), then we question the propriety of our advising the committee during the completion of audit fieldwork to guard against contributions to Federal candidates, which when aggregated with contributions by PCF to the same candidates, are in excess of the joint limitation of 2 U.S.C. 441a(a)(2)(A).

On the other hand, if it is the opinion of the Office of General Counsel that the two (2) Committees are not affiliated, to what extent would an eventual termination of PAF and transmittal of surplus funds to PCF in excess of \$5,000 be seen as a violation of 2 U.S.C. 441a(a)(2)(C)?

81049253991

B. PAF Pension Fund Check-Off Processing System

As indicated earlier, both pension funds served as authorized agents in the withholding of 3% PAF contributions from pension benefit payments and the transmittal of monthly totals to PAF. The basic procedure was as follows: 2/ General payments were received by the Pension Funds from the Steamship Companies as negotiated in collective bargaining agreements, and deposited into a general treasury "Reserve Account". From this account, several weeks prior to anticipated use, sufficient funds were transferred to the "Pension Benefit" savings account, for the maximization of interest income. From this account, several days prior to planned expenditures, sufficient funds to cover those expenditures were transferred to two (2) accounts: 1) the Operating Account, and 2) the Pension Benefits Account. As the account titles indicate, the Operating Account is used to fund Pension Fund operating expenditures, while the Pension Benefits Account funds the actual benefit checks to pensioners. The Administrator of the Pension Fund has informed us that the benefit checks for the PAF contributing pensioners were drawn on the Pension Benefits Account, while the check for the total of the month's 3% PAF withholdings, based on that month's computer run, was drawn from the Operating Account and forwarded on to PAF up until February, 1976, usually the following month.

This procedure remained in effect until February, 1976, when as indicated previously, the Pension Fund stopped forwarding PAF monies and instead transferred the monthly total back to the Pension Benefits savings account mentioned above. During the initial phase of our fieldwork, we were able to trace monthly 3% PAF totals from the computer runs to the Pension Benefits savings account statements without material discrepancy. However, our question arises because of the fact that PAF contributions have been accumulating in that account since February, 1976, and that the same account has served as a temporary repository for other Pension Fund general treasury funds. Therefore, whether or not the PAF is successful in its suit to have the funds released, the monies (totaling \$140,360.83 as of 6/30/78) will eventually go to the PAF or the PCF which, in our opinion, will be receiving contributions commingled with funds prohibited under the Act. We request your review of this issue so that we may advise the Committee accordingly.

2/ Applies only to New York-based Pension Fund, the records of which were the only ones available during the initial phase of fieldwork (see Attachment I).

C. Membership Issue

We have been informed by the Administrator of the New York-based Pension Fund that the Pension Fund itself is considered independent from the IOMMP and that the Pension Trust arose out of past collective bargaining agreements between the Steamship Companies and the IOMMP. He added, however, that both parties had representation on the Pension Fund Board of Trustees and that present IOMMP officers serve on the Board of Trustees

Within the factual situation described in this memo, we question whether the PAF would be considered the separate segregated fund of the IOMMP, or would the PAF be considered the separate segregated fund of a separate membership organization; namely, the Pension Fund. If the Pension Fund is considered as merely an agent of the IOMMP and an integral part thereof, then it would seem to follow that all contributors to the PAF would have to fall within the membership field of the IOMMP, itself.

However, there is a question whether retired members (pensioners) of the Union are still considered "members" within the intent of 2 U.S.C. 441b(b)(4)(A)(ii) (see also 11 CFR 114.1 (e)). We have been informed by the Administrator of the Pension Fund that all retirees are given the option of continuing to pay their annual union dues in order to retain their "membership" in the IOMMP, subject to certain restrictions. Our question for your consideration is whether or not this condition (the continuance of the payment of dues to the IOMMP by the retired pensioner), also has to be met in order for the PAF Pensioner to be considered a union member for purposes of the FECA. Depending on your response, we would intend to raise the issue with PAF officials upon resumption of the Audit.

D. Solicitation Issue

As indicated previously, the IOMMP solicited pensioners for check-off authorization on behalf of the PAF, from 1970 to 1975, at a flat 3% rate. We have retained a copy of said solicitation letter and reply card which does not explicitly provide potential contributors the option of giving more or less than the 3% as presently required by 11 CFR 114.5(a)(2) (see Attachment II). Because of the effective date of the Commission's Regulations (April 11, 1977), we do not feel that this section can be applied to PAF, in any case. However, available information suggests that

contributors have been and are being solicited for the PCF on the same basis at a 2% rate, although actual PCF solicitations have not been reviewed. Our question is: To what extent does a solicitation for contributions to a separate segregated fund which has a uniform guideline have to indicate to the potential contributor his ability to give more or less than the guideline suggests?

If you have any questions on the matters contained herein, please contact Craig Russell on extension 3-4155.

81040253994



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

March 13, 1978

MEMORANDUM

TO:

William Oldaker

~~TOM HAGELHORST~~

THROUGH:

ORLANDO B. POTTER *OB.P.*

FROM:

BOB COSTA *RC*

SUBJECT:

REFERRAL-MASTERS, MATES AND PILOTS
POLITICAL CONTRIBUTION FUND

The above mentioned referral (copy attached) was made on February 23, 1978 by Steve Mims through the Staff Director ~~and yourself~~ to the Office of General Counsel for a possible MUR. However, on March 10, 1978, the Staff Director forwarded the referral to the Audit Division for consideration.

A review of the referral, its attachments, and the questions raised, however, do not appear to justify an audit for cause for the following reasons:

1) The "other documentation" which the referral states discloses the source of contributions to be the union's pension fund appears to be a copy of a check stub on which the withholdings were transmitted to the separate fund.

2) With regard to the "2% factor," the Commission's Regulations (11 CFR 114.5(a)(2)) permit 441b committees to suggest guidelines for contributions to the separate, segregated fund. I find questioning the basis of the 2% factor to be immaterial as the majority of committees whose contributions are facilitated through payroll deduction usually receive standard amounts from all participants.



3) The question regarding whether the union pension fund can transfer monies to the union's PAC apparently stems from the fact that the computer print-out listing contributors is headed "MM&P Pension Offshore Division Action Fund." This appears more to be a separate, segregated fund-perhaps acting as an agent for the committee-rather than the pension fund itself. Possibly a question could be raised with regard to whether or not retired members (the pensioners) are considered by the labor organization to yet be members and, therefore, eligible for solicitation under the Act, but such a question would be better directed to the Office of General Counsel.

Finally, the last paragraph of the referral advises that the Commission approved an audit for cause with respect to the Masters, Mates and Pilots Pensioners Action Fund for circumstances similar to those presented in this referral. However, our recommendation for audit to the Commission was based upon the Committee's failure to file several reports, chronic late filings, and substantial monetary discrepancies. While the actual referral raised the question regarding the possible commingling of the pension fund and its PAC's activities, our review found no reason to raise such a possibility.

Attachment

81040253996



FEDERAL ELECTION COMMISSION

1200 K STREET, N.W.
WASHINGTON, D.C. 20543

February 23, 1978

MEMORANDUM FOR : ~~THE CHIEF~~ *Bob Costa*

THROUGH : ORLANDO B. POTTER *OB.P.*
TOM HASELHOFST *TH*

FROM : STEVE MINS *SM*

SUBJECT : MASTERS, MATES AND PILOTS POLITICAL CONTRIBUTION FUND *SM*

This report is being submitted for possible MUR designation for the following reasons:

1. The committee has reported a total of \$48,924 for calendar year 1977. Itemized schedules and other documentation accompanying the reports have disclosed the source of the contributions reported as having been the union's pension fund (see attached).
2. The itemization also discloses that the amounts were based upon a 2% factor (see attached). It is not clear from the face of the reports what was the base for the 2%.

These items raise the following questions:

1. Can the union pension fund transfer money to the union's separate political contribution account even if so designated by the individuals contributing to the pension fund?
2. The references to the 2% account appear throughout the computerized schedules and other documentation submitted with each report which imply the possibility that the basis for the money contributed to the fund is 2% of the pension contributions received for any period.

It should be noted that the Masters, Mates and Pilots Pensioners Action Fund (a registered committee) has been forwarded to, and approved by the Commission for audit for circumstances similar to those presented here. It may be advisable for the Commission to consider an audit of both accounts at the same time since the parallels between the accounts involve possible violations of 2 U.S.C. 441.



81040253997

MONTHLY REPORT OF CONTRIBUTIONS RECEIVED YTD
FOR THE 25 PASTERS, MATES AND PILOTS POLITICAL CONTRIBUTION FUND

RECEIVED AS OF 11/30/77

RECEIVED IN 11/30/77

ON - DATE 11/30/77

PENSI0018	CODE	SOC. SEC. NO.	AMOUNT RECEIVED YEAR TO DATE PRIOR MONTH	AMOUNT RECEIVED THIS MONTH	AMOUNT RECEIVED YEAR TO DATE
LOUIS A PEDERSEN 43 LAKE DRIVE NEW CITY N.Y. 10756	E	712-16-4106	44.10	4.41	48.51
LOUIS P DONAYNE 3 GULLENWAY LIVERPOOL L 22 4RA ENGLAND	E	713-19-1631	45.90	4.59	50.49
GEORGE J RUDOLPH 1451 104 ST NORTH ORANGE LAKE VILLAGE LAPOO FLA 33540	E	714-05-4015	40.00	4.00	44.00
HOWARD WEST 35 CORNELL ROAD WILMINGTON DEL 19308	E	716-01-2054	47.30	4.73	52.03
PAUL E SULLIVAN 103 MALLOW HILL ROAD BALTIMORE MD. 21229	E	720-15-6735	63.00	6.30	69.30
TOTALS FOR EAST COAST---			35,689.80	3,868.16	39,557.96
TOTALS FOR WEST COAST---			.00	.00	.00
FINAL TOTALS---			35,689.80	3,868.16	39,557.96

PLEASE DETACH AND RETAIN BEFORE DEPOSITING

	BASIC	REDUCED	FAIRLY	DISABILITY	INTEGRATED	AMOUNT
10-1-77						\$ 788.60

REMARKS

October, 1977 2% POLITICAL CONTRIBUTION FUND authorized deductions as withheld.

\$777.10	(computer fund)
- 6.30	(Ole Hansen, deceased)
+ 17.50	(Edward V. Miller, Sept '77 & October '77)
<u>\$788.60</u>	TOTAL

M. M. & P.-P. M. A. PENSION FUND 1025 HOWARD ST. - SAN FRANCISCO, CALIF.

E

1379

7881 031 0653

M H & P PENSION OFFSHORE DIVISION ACTION FUND

RUN DATE 10/17/79 PAGE 11

SOC SEC NO. PENSIONERS NAME AND ADDRESS 7 YTD AS OF LAST MONTH CURRENT REPORT CUMULATIVE YTD

567-22-4207	JENNISON, LELAND P. 125 LAMON DRIVE, APT. 70 SAN FRANCISCO, CA. 94132	58.00	5.50	63.50
567-54-8674	MURPHY, JAMES E. 1005 IRAL DRIVE SANTA CLARA, CA. 95051	11.40	1.14	12.54
571-03-7206	KERFK, GEORGE M. 1140 SANCHEZ ST. APT. 1 SAN FRANCISCO, CA. 94114	31.86	10.62	42.48
573-16-1735	LATINCH, JOHN J. JR. 29 PROSPECT RD. PILDMONT, CA. 94610	85.05	6.30	91.25
573-18-1180	SMART, LEROY A. 5415 PARCO BANK ACCT. #0052 211667 602 THIRD ST. SAN FRANCISCO, CA. 94107	39.60	3.56	43.56
575-14-2891	JONELSON, STEN M. 2756-N. PINEGROVE AVE. APT. 1014 CHICAGO, IL. 60614	85.00	8.50	93.50
				779.25

129-Total 779.25

0000500018



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

October 20, 1978

MEMORANDUM

TO : WILLIAM OLDAKER

THROUGH : ORLANDO B. POTTER *OBP*
STAFF DIRECTOR

FROM : *JC* BOB COSTA *for* CRAIG RUSSELL *CR*

SUBJECT : MASTERS, MATES AND PILOTS PENSIONERS
ACTION FUND

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1/ Actually, the IOMMP had two (2) Pension Funds, one (1) for East and Gulf Coast pensioners based in New York, the other representing West Coast pensioners, headquartered in San Francisco.



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On the other hand, if it is the opinion of the Office of General Counsel that the two (2) Committees are not affiliated, to what extent would an eventual termination of PAF and transmittal of surplus funds to PCF in excess of \$5,000 be seen as a violation of 2 U.S.C. 441a(a)(2)(C)?

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C. Membership Issue

We have been informed by the Administrator of the New York-based Pension Fund that the Pension Fund itself is considered independent from the IOMMP and that the Pension Trust arose out of past collective bargaining agreements between the Steamship Companies and the IOMMP. He added, however, that both parties had representation on the Pension Fund Board of Trustees and that present IOMMP officers serve on the Board of Trustees.

Within the factual situation described in this memo, we question whether the PAF would be considered the separate segregated fund of the IOMMP, or would the PAF be considered the separate segregated fund of a separate membership organization; namely, the Pension Fund. If the Pension Fund is considered as merely an agent of the IOMMP and an integral part thereof, then it would seem to follow that all contributors to the PAF would have to fall within the membership field of the IOMMP, itself.

However, there is a question whether retired members (pensioners) of the Union are still considered "members" within the intent of 2 U.S.C. 441b(b)(4)(A)(ii) (see also 11 CFR 114.1 (e)). We have been informed by the Administrator of the Pension Fund that all retirees are given the option of continuing to pay their annual union dues in order to retain their "membership" in the IOMMP, subject to certain restrictions. Our question for your consideration is whether or not this condition (the continuance of the payment of dues to the IOMMP by the retired pensioner), also has to be met in order for the PAF Pensioner to be considered a union member for purposes of the FECA. Depending on your response, we would intend to raise the issue with PAF officials upon resumption of the Audit.

D. Solicitation Issue

As indicated previously, the IOMMP solicited pensioners for check-off authorization on behalf of the PAF, from 1970 to 1975, at a flat 3% rate. We have retained a copy of said solicitation letter and reply card which does not explicitly provide potential contributors the option of giving more or less than the 3% as presently required by 11 CFR 114.5(a)(2) (see Attachment II). Because of the effective date of the Commission's Regulations (April 11, 1977), we do not feel that this section can be applied to PAF, in any case. However, available information suggests that

contributors have been and are being solicited for the PCF on the same basis at a 2% rate, although actual PCF solicitations have not been reviewed. Our question is: To what extent does a solicitation for contributions to a separate segregated fund which has a uniform guideline have to indicate to the potential contributor his ability to give more or less than the guideline suggests?

If you have any questions on the matters contained herein, please contact Craig Russell on extension 3-4155.

61040251006



International Organization of

Masters, Mates & Pilots

39 Broadway, New York, N.Y. 10008 / (212) 944-8505 / Cable: BRIDGEDECK / Telex No.: 12-5058

THOMAS J. O'CALLAGHAN

International President

WILLIAM M. LAITWELL

International Executive Vice President

ROBERT J. LYNN

International Secretary Treasurer

ATTACHMENT II

Dear Brother:

Through the efforts of Collective Bargaining we have negotiated expanded welfare benefits for our pensioners and their dependents.

A conservative estimate concluded that similar benefits provided by a private insurance company would come to an out-of-pocket cost of \$450.00 per year.

The Masters, Mates and Pilots is gratified to inform you of this notable achievement in behalf of all our pensioners as a continuing proof of the dedication of our Organization in your behalf; our way of demonstrating we recognize and appreciate the contributions of the pensioners in the development and progress of the Organization. This latest improvement adds to the benefits obtained in recent years:

- Plan pays Medicare premium for pensioners and dependents over age 65.
- Optical benefits paid to pensioners and dependents up to \$42 per person per year.
- Pensioners and dependents younger than age 65 are eligible for benefits similar to those provided for active employees and their dependents, which is paid entirely by the Welfare Plan.

In the face of the clear and unmistakable threats to the economy of the country, the danger of unrestrained rise in living costs, mounting fears of increased taxation on those least able to pay; a strong effort is urgently needed simply to protect our hard won accomplishments; and an even greater challenge faces us all to expand and increase our material welfare levels.

①



Our friends and supporters in Congress carry on an uphill fight in support of our legislative programs. They have earned the right to our full moral and financial support. They must know that we back them up by deeds, by contributions, by the will and the means to back up words with action. Our Organization intends to verify our commitments to friendly and helpful Congressmen, to act and speak with purpose and purse.

PAF
Purpose [We have established the new independent IOMM & P Offshore Division Pensioners' Action Fund to meet urgent needs: to move legislatively and politically in behalf of our pensioners and their immediate and long-term interests; to provide improved and new services to pensioners directly by the Organization; to speak for pensioners and their interests at the bargaining table.

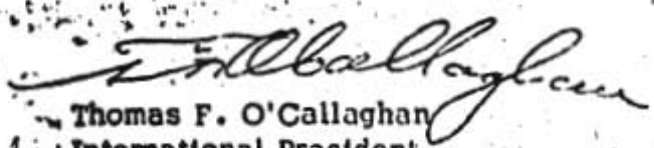
Each individual pensioner has the unequivocal right to voluntarily contribute. We urge your participation in this necessary and crucial effort.

Your signature on the enclosed pension deduction authorization card will record your individual approval of the action campaign we must launch without delay. The Administrator will accept your signed card as authorization to automatically deduct 3% of your pension monthly and forward it to the Fund for the purposes outlined.

Your voluntary contribution is a practical and responsible response to a present clear need, and your personal recognition of the Organization's effort to advance your overall interests in strong and clear action.

I urge you to approve the program and join with all of the pensioners in a united campaign to protect and improve the security and benefits now enjoyed by MM&P members. Please sign now.

Fraternally yours,


Thomas F. O'Callaghan
International President

TOC/mr
Encl.
Rev. 2/73

(2)

Pension Deduction Authorization Card

Soc. Sec. No. _____

(Print Name)

I hereby authorize the Administrator of the M.H. & P. Pension Plan to deduct the sum of 3% from each of my monthly pension checks and forward such amounts to the I.O.M.H. & P. Offshore Division Pensioners' Action Fund. I understand that this is a voluntary contribution and make it on that basis.

I further understand that the money in the Action Fund will be used for contributions to Congressional-legislative campaigns; to defray expenses in connection with the Union's negotiations and services for its members; and such associated expenditures that the Union may deem proper.

Date _____

Pensioner's Signature _____

FEDERAL ELECTION COMMISSION
1977-1978
COMMITTEE INDEX OF CANDIDATES SUPPORTED - (D)

WHAT IS INCLUDED IN THIS INDEX?

- Political committees which have spent money on behalf of, or contributed to, a Federal candidate or his/her principal campaign committee.
- Federal candidates supported by each committee.
- Aggregate amount of contributions to, or expenditures made on behalf of, a Federal candidate disclosed to date by the supporting committee.

WHAT INFORMATION IS SHOWN?

- Name and FEC identification number of the supporting political committee.
- Connected organization of the political committee.
- Name and FEC I.D. number of each Federal candidate supported (listed alphabetically by office sought).
- State and District of House candidates.
- Total contributions and expenditures made on behalf of Federal candidates.
- Qualification status of supporting committees.

GUIDELINES AND RESTRICTIONS ON USE OF THIS INFORMATION

- All data is as reported by the political committees and is subject to change by amendments. The indexes are updated within forty-eight hours, as amendments and/or new documents are received by the FEC.
- The index is as reported by the political committees and does not show whether the contribution has been reported by the candidate or his/her principal campaign committee.
- "Expenditures on Behalf of" which are reported by party committees are in fact, 441a(d) expenditures.
- The amount itemized for each candidate are aggregate figures of contributions to the candidate (or his/her principal campaign committee) and may represent a series of contributions over a period of time; likewise, since the reports did not always indicate whether a contribution was for a primary or general election, the figures represent total contributions made since January 1, 1977, for all elections, including special and run-off and those contributions made to retire debts.
- Contributions to and expenditures on behalf of a candidate made by a political committee are subject to specific limitations. Refer to U.S.C. Sections 441a(a) and 441a(d).
- THIS DATA SHOULD NOT BE USED AS AN INDICATION THAT A COMMITTEE HAS EXCEEDED THE LIMIT, BUT ONLY AS A GUIDE TO FURTHER EXAMINATION OF THE REPORTS THEMSELVES.
- This data has been extracted from the original reports and shall not be sold or utilized by any person for the purpose of soliciting contributions or for any commercial purpose (2 U.S.C. Section 438(a)(d)).



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20461

THIS IS THE BEGINNING OF MUR # 773

Date Filmed June 9, 1981 Camera No. --- 2

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