

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of
International Brotherhood of Electrical Workers,
Local 108; and
International Brotherhood of Electrical Workers,
Local 108 PAC Fund

2007 OCT -3 P: 20

MUR

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2007 OCT -3 PM 12:55

COMPLAINT

Sumter Electric Cooperative ("SECO") brings the following complaint before the Federal Election Commission ("FEC" or "Commission") against the International Brotherhood of Electrical Workers, Local 108 ("Union") and the International Brotherhood of Electrical Workers, Local 108 PAC Fund ("PAC Fund") for violations of the Federal Election Campaign Act of 1971, as amended, and its associated regulations.

Parties

1. SECO is an electric distribution cooperative, providing electricity to homes and businesses in seven Florida counties. SECO is also a member of the National Rural Electric Cooperative, which has established the Action Committee for Rural Electrification ("ACRE") as a political action committee for its affiliated cooperatives.
2. The Union is a local union affiliated with the International Brotherhood of Electrical Workers. Some employees of SECO are members of the Union.
3. The Union has set up the PAC Fund to which its members can contribute. On information and belief, these contributions are then forwarded to the International Brotherhood of Electrical Workers Political Action Committee ("IBEW PAC"), which is a separate segregated fund registered as a political action committee with the FEC.

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Facts

4. SECO solicits contributions to ACRE from its employees. To facilitate such contributions, it has established a payroll deduction system under which employees may select to have contributions to ACRE deducted from each paycheck.

5. A number of SECO employees recently terminated their payroll deductions to ACRE. Upon information and belief, these terminations were made in support of the Union's protest of management decisions that SECO recently made.

6. In response to a memo from SECO management to all SECO employees explaining the reasoning behind its decisions in the wake of the payroll deduction terminations, R. Floyd Suggs, Business Manager and Financial Secretary of the Union sent a letter to "Brothers, Sisters, and Employees covered by the Collective Bargaining Agreement," in which Mr. Suggs provided the Union's reasoning behind its protest of SECO's management decisions. See June 11, 2007, Letter, attached hereto as Exhibit 1.

7. The June 11, 2007, letter was addressed to both union and non-union members. On information and belief, SECO employees who are not members of the Union received the letter.

8. In this letter, Mr. Suggs states that "*I encourage employees to contribute to the United Way through direct donations and maintain political action through the union PAC Fund.*" Id. at 1 (emphasis added).

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9. Despite its encouragement of contributions, this solicitation contains no information about the political purpose of the PAC Fund or the IBEW PAC. It does not inform Union members of their right not to contribute without retribution by the Union. Finally, it does not inform members that they will not be favored or disfavored by their contribution amount or by their decision not to contribute.

10. Union members have also recently submitted to SECO's accounting department payroll deduction forms for contributions to the PAC Fund. Examples of these forms are attached hereto as Exhibits 2 – 7.

11. The forms authorize SECO to deduct money from the employee's paycheck as contributions to the PAC Fund, which, upon information and belief, are forwarded to the IBEW PAC.

12. Nowhere on these forms is there a clear description of the political purposes of the PAC Fund or the IBEW PAC. Additionally, there is no statement informing the Union member of his or her right to refuse to contribute without any reprisal from the Union. Finally, the forms do not include any statement informing the Union member that he or she will not be favored or disfavored by the amount of the contribution made or by a decision not to contribute.

Applicable Law

13. If a corporation or a cooperative implements a payroll deduction system for contributions to a separate segregated fund ("SSF"), it must make such a system available to union members who wish to contribute to their union's SSF. 11 C.F.R. § 114.5(k)(1).

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14. A union may only solicit contributions to an SSF from "its members and executive or administrative personnel, and their families." 11 C.F.R. § 114.5(g)(2); see also 2 U.S.C. § 441b(b)(4)(A)(ii).

15. A union, when soliciting contributions, must inform its members "of the political purposes of the fund at the time of the solicitation." 11 C.F.R. §§ 114.5(a)(3), (5); see also 2 U.S.C. § 441b(b)(3)(B).

16. When soliciting its members, a union must also inform them "at the time of such solicitation of his or her right to refuse to so contribute without any reprisal." 11 C.F.R. §§ 114.5(a)(4), (5); see also 2 U.S.C. § 441b(b)(3)(C).

17. The Commission considers communications that either encourage or facilitate contributions to an SSF to be solicitations. See FEC Advisory Opinions 1979-13 and 1999-6; MUR 5681; see also FEC Advisory Opinion 2003-14 (stating that "a communication regarding SSF activity is not a solicitation under section 441b where the information provided would neither encourage readers to support the SSF activities nor facilitate contributions to the SSF").

Violations Of Federal Law

18. By sending the June 11, 2007, letter, the Union encouraged SECO employees to "maintain political action through the union PAC Fund." Ex. 1 at 1. That exhortation constituted a solicitation for contributions to the IBEW PAC through the PAC Fund. See FEC Advisory Opinion 1979-13.

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19. The solicitation failed to include the following information: (1) the political purpose of the PAC Fund or the IBEW PAC; (2) the rights of Union members to refuse to contribute; and (3) the inability of the Union to favor or disfavor its members based on their contribution amounts or their decisions not to contribute. By failing to include this legally required information, the Union and the PAC Fund violated 2 U.S.C. §§ 441b(b)(3)(B), (C) and 11 C.F.R. §§ 114.5(a)(3), (4), (5).

20. Because the June 11, 2007, solicitation letter was sent to employees covered by the Collective Bargaining Agreement, including employees who are not members of the Union, and explicitly urged all *employees* of SECO to contribute, the Union improperly solicited non-Union members for contributions to IBEW PAC through the PAC Fund in violation of 2 U.S.C. § 441b(b)(4)(A)(ii) and 11 C.F.R. § 114.5(g)(2).

21. By providing its members with payroll deduction cards by which members may authorize SECO to deduct contributions to the IBEW PAC through the PAC Fund, the Union and the PAC Fund have facilitated employee contributions to the IBEW PAC through the PAC Fund, and, therefore, the payroll deduction cards are solicitations. See FEC Advisory Opinion 1999-6.

22. These solicitations failed to include information about (1) the political purpose of the PAC Fund or the IBEW PAC; (2) the rights of Union members to refuse to contribute; and (3) the inability of the Union to favor or disfavor its members based on their contributions amounts or their decisions not to contribute. By sending these solicitations without including this legally required information, the Union and the PAC Fund violated 2 U.S.C. §§ 441b(b)(3)(B), (C) and 11 C.F.R. §§ 114.5(a)(3), (4), (5).

CONCLUSION

SECO requests that the Commission investigate the above-described violations of federal law that the Union and the PAC Fund have committed, declare the Union and the PAC Fund to have committed said violations, and seek appropriate criminal and civil punishment against the Union and the PAC Fund.

Respectfully submitted,

Alex Markley
Alex Markley
Director of Human Resources &
Corporate Services

On Behalf of Complainant
Sumter Electric Cooperative
330 South Highway 301,
Sumterville, FL 33585-0301
(352) 793-3801

Verification

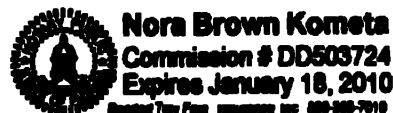
Sumter Electric Cooperative hereby verifies that the statements made in the above Complaint are, upon information and belief, true.

Alex Markley
Alex Markley
Director of Human Resources & Corporate Services
Sumter Electric Cooperative

Sworn and subscribed to before me this 1st day of October, 2007.

Nora Brown Kometa
Notary Public

My commission expires: 1-18-10



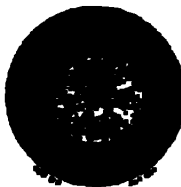
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Exhibit 1

International Brotherhood of Electrical Workers

Local Union #108

10108 Highway 92 East
Tampa, FL 33610-5981
(813) 621-2418
Fax: (813) 621-1687
Web Site: www.ibew108.org



R. Floyd Suggs
Business Manager and
Financial Secretary
Robert A. Thomas
President

June 11, 2007

RE: Mr. Duncan's Memo Dated June 7, 2007, "Employee Update – The Rest of the Story"

Dear Brothers, Sisters, and Employees covered by the Collective Bargaining Agreement,

I am writing this letter to correct some inaccurate statements made by Mr. Duncan in his memo dated June 7, 2007.

I am enclosing a copy of my letter dated June 6, 2007 to HR Director Alex Marley on the subject of United Way and ACRE. Nowhere in my letter do I take any credit for the action of employees withdrawing their support to the United Way or ACRE. What I did say, was that I support this action and I encourage employees to contribute to the United Way through direct donations and maintain political action through the union PAC Fund. I support employees in their protected right under the NLRA, and any other law which gives them the right to give their money to anyone, including the right to be part of the Union or not.

As to "The Rest of the Story", in 2006 when the Union and SECO were in negotiations, at no time did SECO management or Mr. Duncan address the Service Planner position during the entire negotiations process. In addition, the Cooperative created this position in April 2006 without notifying the Union or any of the Unit Officers. The Cooperative has recently changed the Engineer Technician position to Senior Engineer Technician. At that time Mr. Harold Watson did not wish to bid on or move to the Senior Engineer Technician position. He was then laid off. Mr. Watson filed a grievance on the layoff and the Cooperative using contractors. The Cooperative reached an agreement with Mr. Watson and he withdrew his grievance without prejudice or precedent.

The Cooperative then hired Mr. Richard Bider to fill the position of Senior Engineer Technician. Mr. Bider served his six month probationary period but the Cooperative, for no reason, wanted to extend his probationary period. The Cooperative did not request the extension within the six month probationary period which led Mr. Bider to file a grievance. In turn, the Cooperative then laid Mr. Bider off from his position of Senior Engineer Technician. Mr. Bider filed another grievance challenging the layoff, which is now pending arbitration.

SECO management met with Senior Engineer Technicians at 8:00 A.M. on April 20, 2007 to discuss the Service Planner position. Employees were told to bid on the Service Planner position and receive over a ten percent (10%) raise for the next twelve months or face possible layoff. The Senior Engineer Technicians were told that this position would not be covered under the Collective Bargaining

Agreement. The Cooperative did not notify or discuss this with the Union until after the meeting, when Mr. Forehand notified Assistant Business Manager, John Murphy that Senior Engineer Technicians would now have to bid on the Service Planner position or face being laid off. The Union filed a grievance and Board charges against the Cooperative and HR Director Alex Markley which are now pending.

The Service Planner position was allegedly changed and a bid was posted. The Service Planner position was awarded to seven (7) Senior Engineer Technicians. Four (4) Senior Engineer Technicians did not bid on the position. The Cooperative has hired two (2) or (3) three Service Planners off the street and laid off the junior Senior Engineer Technician, Michael Colon. Still, the Cooperative has at least one (1) contractor doing Senior Engineer Technician work and eight (8) or nine (9) Service Planners doing Senior Engineer Technician work.

We have employees laid off while the Cooperative continues to hire new employees and use contractors. Will the Cooperative continue with further layoffs of the other Senior Engineer Technicians? Do these actions show loyalty to the employees by Mr. Markley or Mr. Duncan?


Sumter Electric Cooperative has recently notified the Union (which is you) that after June, the dues deduct cards that have been used for many years will be invalid. Revised cards have been printed and must now be filled out and signed by members/employees. This action further shows the Cooperatives unwillingness to cooperate with its covered employees. The Company is intentionally creating an inconvenience to both you and your co-workers by requiring that all existing cards be replaced. The Cooperative could have easily honored the existing cards from current members and required new members to sign the revised cards. What is the real reason for this action?

Now you have "The Rest of the Story."

We will be having a Solidarity Party on Tuesday, June 19, 2007 at 6:00 P.M. at the Lake Panasoffkee Community Center. The regular unit meeting will follow at 8:00 P.M. Food and drinks will be provided, so please come.

If you have any questions or need any additional information please do not hesitate to call me. I can be reached at (813) 621-2418.

In Solidarity,


R. Floyd Suggs
Business Manager/
Financial Secretary

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Exhibit 2

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Notice

Name

Dept

PLEASE PRINT

I authorize Samuel Clemens, Sr.

to deduct from my paycheck \$ 12.00 each month for the I.A.E.W. Labor Union 100 PAC Fund.

Signature

Date 7-6-02

RECEIVED
7/17/02



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Exhibit 3

NOTICE

Name _____ Dept. 8

I authorize SELOFRARY
to deduct from my paycheck \$51.00 each
month for NEW Local Union 100 PAG Fund.

Signature _____

Date 21 Aug 07

9/17/07

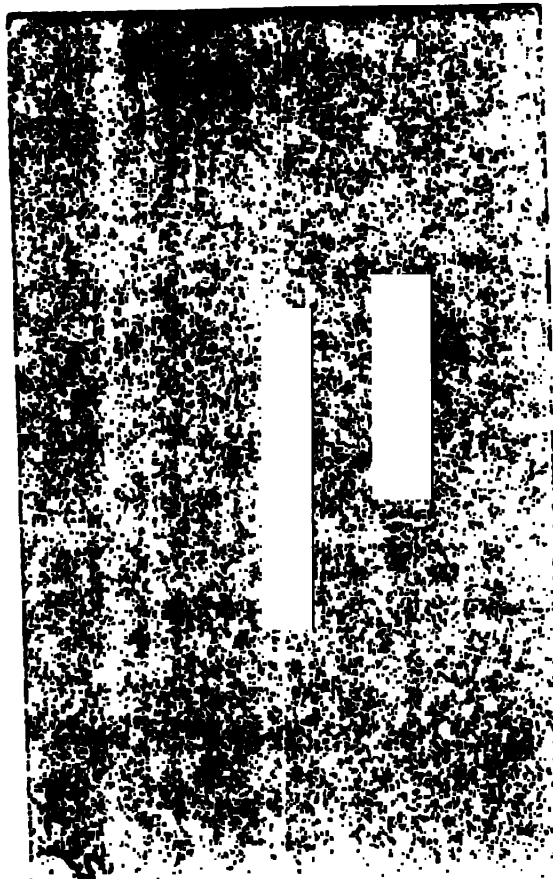


Exhibit 4

Notice

Name _____

Please Print

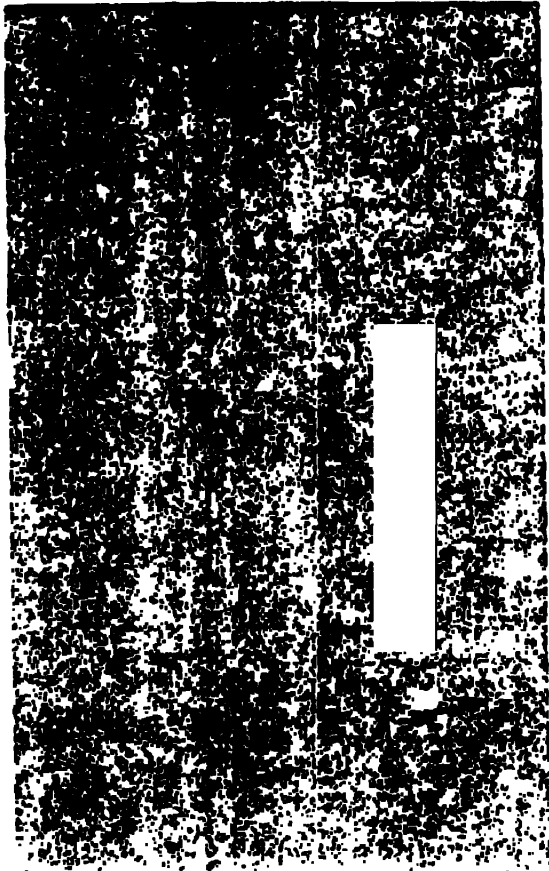
I authorize Q & Q Agency

to deduct from my paycheck \$ 10.00 each month for the Q & Q Agency plan.

Signature _____

Date: 7-17-07

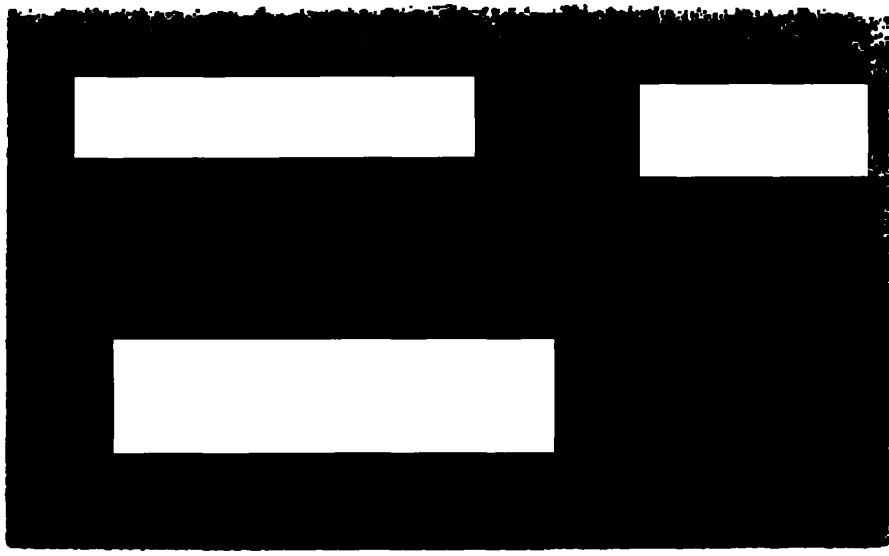
[Stamp]



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Exhibit 5

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Exhibit 6

NOTICE

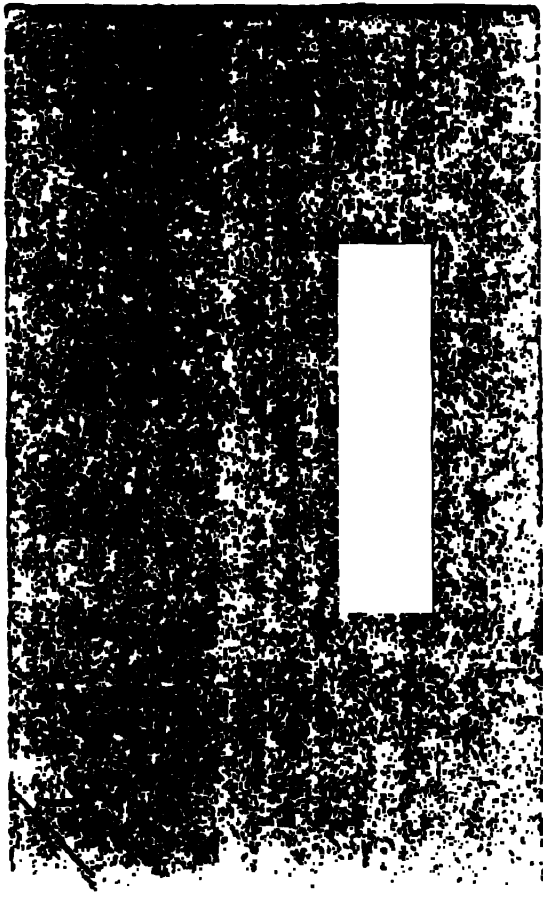
Name: _____ Dept: _____

I authorize _____

to deduct from my paycheck \$ 5.00 each month for the I.E.E.W. Local Union 100 PAC Fund.

Signature _____

Date: 7-23-07



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Exhibit 7

Notice

Name _____ Dept. _____

I authorize Sisco

to deduct from my paycheck \$ 2.90 per month for the I.B.E.W. Local Union 100 P.O. Box 100

Signature _____

Date 8-22-67

PAID
1967

