



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Sarah J. Gasperini, Esq.
Jackson Lewis, PC
150 North Michigan Avenue
Suite 2500
Chicago, IL 60601

MAR 28 2017

RE: MUR 7050
Chicago Signature Services, LLC

Dear Ms. Gasperini:

On April 27, 2016, the Federal Election Commission notified your client, Chicago Signature Services, LLC ("CSS"), of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On July 7, 2016, the Commission notified CSS of a supplement to the complaint. On March 21, 2017, based upon information in the complaint, the supplement, and information provided by CSS, the Commission voted to dismiss the allegation that CSS violated 52 U.S.C. § 30118(b)(3) and found that there is no reason to believe that CSS violated 52 U.S.C. § 30124(b). Accordingly, on March 21, 2017, the Commission closed the file in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). The Factual and Legal Analysis, which more fully explains the Commission's findings, is enclosed.

If you have any questions, please contact Delbert K. Rigsby, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Mark Allen
Assistant General Counsel

Enclosure
Factual and Legal Analysis

17094444007

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: UNITE HERE TIP Campaign Committee and
Timothy Barnes in his official capacity as treasurer
UNITE HERE Local 1 Political Action Committee
Chicago Signature Services, LLC

MUR 7050

I. INTRODUCTION

The Complainant, a member of UNITE HERE Local 1 union ("Local 1"), alleges that his employer, Chicago Signature Services, LLC ("CSS"), made unauthorized payroll deductions from his earnings between January 2008 and January 2013 for contributions to UNITE HERE TIP Campaign Committee ("Committee"), in violation of the Federal Election Campaign Act of 1971, as amended (the "Act"). The Complainant also alleges that the unauthorized payroll deductions constitute a fraudulent solicitation of funds by the Committee under the Act, and requests a refund. On the basis of the available information, the Commission dismisses the allegation that the Committee, CSS and UNITE HERE Local 1 Political Action Committee ("Local 1 PAC") violated 52 U.S.C. § 30118(b)(3). The Commission also finds that there is no reason to believe that the Committee, CSS or Local 1 PAC violated 52 U.S.C. § 30124(b).

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

The Complainant is an employee of CSS and a member of Local 1,¹ an affiliate of UNITE HERE. The Committee is a federal political committee that is the separate segregated fund of UNITE HERE.² According to the Complaint, from January 2008 through January 2013,

¹ Compl. at 1. Local 1 is a union that represents 15,000 hospitality workers in Chicago, Illinois, and Northwest Indiana. See <http://www.unitehere1.org/about-local-1/>.

² See Committee's Amended Statement of Organization (April 21, 2015) at <http://docquery.fec.gov/pdf/943/15951210943/15951210943.pdf>.

one dollar per month of Complainant's earnings at CSS was deducted for the Committee.³

Complainant alleges that this deduction was unauthorized and he has sought reimbursement from Local 1.⁴

The Committee and CSS submitted responses to the Complaint. The Committee asserts that the Complainant authorized the payroll deduction in 2008, and when the Complainant requested the deduction be terminated in early 2013, CSS immediately did so.⁵ The Committee asserts that Complainant signed an authorization for a one dollar per month payroll deduction, and provided a copy of an authorization form signed by Complainant.⁶ The form is not dated, but the Committee states that it was the local union's usual business practice to have employees

³ Compl. at 1 and attached earnings statement from Complainant dated October 19, 2012, and attached email from Complainant to Local 1 dated Apr. 30, 2015. The deductions were made pursuant to Local 1's collective bargaining agreement with CSS. See Section 2.5 of the Collective Bargaining Agreement between CSS and Local 1, which is attached to the Complaint.

⁴ Compl. at 1. On June 30, 2016, the Complainant filed a Supplemental Complaint with the Commission including documentation indicating that Local 1 had placed him on withdrawal status from the union effective March 30, 2016, and stating that he was "reasonably suspicious" of the withdrawal notice given his pending complaint with the Commission. Suppl. Compl. at 1. The Supplemental Complaint does not provide any additional information regarding the circumstances of Complainant's payroll deduction, but includes information about an unrelated grievance that he filed with Local 1 in 2015 concerning CSS. In a response to the Supplemental Complaint on behalf of Local 1 PAC, Local 1 submitted a sworn statement from the Local 1 treasurer that Complainant was sent a withdrawal letter in error and the error was caught and remedied. Local 1 Supp. Resp. at 2 and attached Second Declaration of Xiao Dan Li ¶ 2.

⁵ Committee Resp. at 1 and attached Declaration of Local 1's treasurer, Xiao Dan Li ¶ 4; CSS Resp. at 1. Complainant himself acknowledges that "[t]he deduction was ceased in February of 2013." Compl. at 1. See also attached letter to the Complaint dated August 3, 2015, from Victoria Priola, counsel to CSS and another employer in an Illinois Department of Labor ("IDL") proceeding involving the Complainant, where Ms. Priola asserts to IDL that payroll deductions began in August 2004. Priola's letter does not specify to which employer the 2004 date applies.

⁶ Committee Resp. at 1 and attached authorization form. The authorization form refers to Hotel Employees and Restaurant Employees International Union TIP – "To Insure Progress" as the union, which is now named UNITE HERE TIP – To Insure Progress, which merged with UNITE HERE TIP Campaign Committee in 2006, after a merger between two connected labor organizations, UNITE and Hotel Employees and Restaurant Employees International Union. See Li. Decl. ¶ 3.

sign the form shortly before the employer would begin the payroll deduction.⁷ The Committee also asserts that the Complainant's allegation that the Committee fraudulently solicited funds in violation of 52 U.S.C. § 30124(b) would not be relevant to this matter even if the Complainant had not authorized the contributions.⁸ Finally, the Committee notes that the allegation concerns a small amount of contributions totaling less than \$60 and that much of the activity occurred prior to the applicable statute of limitations.⁹ Accordingly, Respondents ask that the Commission find no reason to believe or dismiss this matter.¹⁰

B. Legal Analysis

Labor organizations are permitted to establish and solicit political contributions to a separate segregated fund ("SSF").¹¹ Labor unions may use a payroll deduction system to collect and forward voluntary contributions from certain persons to their SSFs.¹² A labor organization

⁷ Committee Resp. at 2. The Committee also contends that Local 1 occasionally used authorization forms bearing the predecessor's name of the Committee until new forms were printed. Li Decl. ¶ 4.

⁸ Committee Resp. at 2. Although the Committee does not discuss this allegation in any detail, Section 30124(b) prohibits the fraudulent solicitation of funds on behalf of a candidate or political party, and the Committee may be referencing the fact that there is no reference whatsoever to a candidate or political party in this matter.

⁹ *Id.* at 2.

¹⁰ *Id.* at 1; CSS Resp. at 1. Respondent Local 1 PAC is an Illinois-registered political committee and the separate segregated fund of Local 1. It does not appear to have been involved in the activity alleged to have violated the Act, as the deductions were made for the Committee, not Local 1 PAC. Local 1 responded to the Complaint and Supplemental Complaint on behalf of Local 1 PAC. In addition to denying that Local 1 PAC had any involvement in the alleged violations, Local 1 raises various procedural arguments, including that there is no entity named UNITE HERE Local 1 Political Action Committee and that the "actual entity most similar to the named respondent" is UNITE HERE Local 1 Political Action Fund. The Illinois State Board of Elections website, however, lists only UNITE HERE Local 1 Political Action Committee. See <http://www.elections.il.gov/CampaignDisclosure/CommitteeSearch>.

¹¹ See 52 U.S.C. § 30118(b)(2)(C).

¹² See 11 C.F.R. § 114.2(f)(4)(i). See also Statement of Policy; Recordkeeping Requirements for Payroll Deduction Authorizations, 71 Fed. Reg. 38,513 (July 7, 2006). While certain other forms of documentation may serve as proof of payroll documentation authorization, signed payroll deduction forms may serve as the best documentation that a deduction was authorized at a particular time for a particular amount. See *id.*

or its SSF may only solicit contributions from the organization's members and their families.¹³

All contributions to an SSF must be voluntary and without coercion.¹⁴ To ensure that contributions are solicited for an SSF are voluntary, the Act and the Commission's regulations make it unlawful for any person to solicit a contribution to an SSF without informing the employee of the political purpose of the SSF and the right to refuse to contribute to the SSF without reprisal.¹⁵

While the Complainant here alleges that the payroll deductions were unauthorized, he has not provided any details on how the payroll deduction started or whether he was coerced to contribute.¹⁶ The Committee, on the other hand, has provided a copy of an authorization form that appears to be executed by the Complainant (the signature on the form looks the same as Complainant's signature on the complaint) and the form contains statements explaining that the deducted contributions are voluntary. The form, however, is undated, and contains the name of a predecessor committee of the Committee, and, therefore, there is some doubt as to when it may have been signed.¹⁷ Nevertheless, Respondents have provided a form apparently signed by Complainant, and, taken together with the low potential amount in violation (less than \$60) and

¹³ See 52 U.S.C. § 30118(b)(4)(A)(ii).

¹⁴ See 52 U.S.C. § 30118(b)(3); 11 C.F.R. § 114.5(a).

¹⁵ See 52 U.S.C. § 30118(b)(3); 11 C.F.R. § 114.5(a).

¹⁶ Although Complainant does not waive his rights to complain about the lack of authorization due to the passage of time, we do observe that the monthly deductions were made for over 5 years before the Complainant asked them to cease.

¹⁷ The Li Declaration says the authorization form was signed in 2008, while the Priola letter, *see supra* n.5, says that the deduction from Complainant's pay began at the time his employment commenced in August 2004. The Priola letter, however, relates to two companies (including CSS) that were the subject of the IDL matter; the reference to 2004 likely regards the other company. The Complaint and the Committee response agree that Complainant's CSS deduction began in 2008.

the fact the activity ceased in 2013 and most of it is outside the statute of limitations, the Commission dismisses the allegation that Respondents violated 52 U.S.C. § 30118(b)(3).

The Commission does not believe the allegations constitute a fraudulent solicitation of funds under 52 U.S.C. § 30124(b). That provision prohibits persons from fraudulently misrepresenting that they speak, write or act on behalf of any candidate or political party for the purpose of soliciting contributions or donations. This section is not applicable to the payroll deduction allegation contained in this Complaint because the Committee was soliciting for itself and not on behalf of a candidate or political party.

For the reasons listed above, the Commission dismisses the allegation that the UNITE HERE TIP Campaign Committee, UNITE HERE Local 1 Political Action Committee and Chicago Signature Services, LLC, violated 52 U.S.C. § 30118(b)(3). The Commission also finds that there is no reason to believe UNITE HERE TIP Campaign Committee, UNITE HERE Local 1 Political Action Committee or Chicago Signature Services, LLC, violated 52 U.S.C. § 30124(b).