



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

OCT 29 2007

Robert D. Kurnick, Esq.
Sherman, Dunn, Cohen, Leifer & Yellig, P.C.
900 Seventh Street, N.W.
Suite 1000
Washington, D.C. 20001

RE: MUR 5944
International Brotherhood of Electrical
Workers, Local 108
International Brotherhood of Electrical
Workers, Local 108 PAC Fund

Dear Mr. Kurnick:

On October 9, 2007, the Federal Election Commission notified your client, International Brotherhood of Electrical Workers, Local 108 ("IBEW Local 108") and its political committee, International Brotherhood of Electrical Workers, Local 108 PAC Fund ("Local 108 PAC Fund"), of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On October 21, 2008, the Commission found, on the basis of the information in the complaint, information provided by your client, and other publicly available information, that there is no reason to believe IBEW Local 108 or Local 108 PAC Fund violated 2 U.S.C. § 441b(b) and 11 C.F.R. § 114.5. Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

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

Sincerely,

Julie Kara McConnell
Assistant General Counsel

Enclosure
Factual and Legal Analysis

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1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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5 RESPONDENTS: International Brotherhood of Electrical Workers MUR: 5944
6 Local 108
7 International Brotherhood of Electrical Workers,
8 Local 108 PAC Fund
9

10 **I. INTRODUCTION**

11 Sumter Electric Cooperative, Inc. ("SECO") filed a complaint alleging that International
12 Brotherhood of Electrical Workers, Local 108 ("Local 108") and its separate segregated fund
13 ("SSF"), International Brotherhood of Electrical Workers, Local 108 PAC Fund ("Local 108
14 PAC"), violated the Federal Election Campaign Act of 1971, as amended, ("the Act"), by
15 improperly soliciting SECO employees to make contributions.

16 According to the complaint, Respondents failed to include notices regarding the
17 voluntariness of contributions in a June 11, 2007 letter soliciting contributions and in its payroll
18 deduction authorization forms, as specified in 2 U.S.C. § 441b(b)(3) and 11 C.F.R. § 114.5(a).
19 In addition, the complaint alleges that, because Respondents sent the June 11, 2007 letter to both
20 members and non-members of the union, they solicited contributions beyond Local 108 PAC's
21 restricted class in violation of 2 U.S.C. § 441b(b)(4)(A)(ii) and 11 C.F.R. § 114.5(g)(2).
22 Respondents contend that Local 108 PAC is not a federal political committee and therefore did
23 not violate the Act.

24 As more fully set forth below, Local 108 PAC does not appear to be a federal political
25 committee. Thus, the Commission finds: 1) no reason to believe that Local 108 and Local 108
26 PAC violated 2 U.S.C. § 441b(b)(3) and 11 C.F.R. § 114.5(a) by failing to inform solicitees
27 about the political purpose of the SSF and the right to refuse to contribute without reprisal; and

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2) no reason to believe that Local 108 and Local 108 PAC violated 2 U.S.C. § 441b(b)(4)(A)(ii) and 11 C.F.R. § 114.5(g)(2) by soliciting individuals outside of its restricted class.

II. FACTUAL BACKGROUND

A. Local 108 and Local 108 PAC

SECO is an electric distribution cooperative that was incorporated in 1938 and operates in Central Florida. Local 108 is a union that represents approximately 171 of the 379 individuals who are employed with SECO. Local 108 is affiliated with the International Brotherhood of Electrical Workers (“IBEW”).

Local 108 has a state political committee, Local 108 PAC, that is registered with the Florida Department of State but not with the Commission. Local 108 PAC collects contributions from members through a payroll deduction system in which members fill out forms authorizing SECO to deduct contributions to Local 108 PAC directly from their paychecks. Respondents assert that Local 108 and its PAC do not collect and transmit contributions to the SSF of the national IBEW organization,¹ and that Local 108 PAC primarily makes contributions to state and local candidates. *See* Response at 2; Declaration of R. Floyd Suggs at ¶¶ 4, 6-7.

While Florida Department of State records confirm that the vast majority of disbursements made by Local 108 PAC were to state and local candidates, it appears that Local 108 PAC made three payments to federal committees associated with national or local IBEW organizations as follows:²

¹ The complaint and response identify this committee as IBEW PAC. Commission records, however, do not show that “IBEW PAC” is a registered political committee. Mostly likely, the complaint and response meant to refer to IBEW COPE, which is registered with the Commission as the separate segregated fund of the national IBEW organization.

² *See* Florida Department of State, Division of Elections, Campaign Finance Database, available at <http://election.dos.state.fl.us>.

DATE	AMOUNT	FEDERAL POLITICAL COMMITTEE
10/14/2004	\$1,000	IBEW COPE
07/07/2005	\$500	IBEW 728 ElectroPAC
08/03/2006	\$500	IBEW COPE

Respondents state that the 2006 check to IBEW COPE was deposited into IBEW COPE's non-federal account. See Response at 2; Declaration of R. Floyd Suggs at ¶ 7. Because the response did not address the payments made in 2004 and 2005 to IBEW COPE and IBEW 728 ElectroPAC, a letter was sent to Respondents on January 7, 2008. In their reply to the letter, Respondents represent that, while they do not know whether the 2004 and 2005 payments were deposited into the federal or non-federal accounts of these organizations, they did not intend either payment to influence a federal election. In particular, Respondents assert that the 2005 payment was an earmarked contribution to the Florida Democratic Party.

IBEW COPE and IBEW 728 ElectroPAC did not report any of the payments from Local 108 PAC as contributions to their respective federal accounts, and our examination of Commission records does not reveal that Local 108 PAC is a contributor to any other federal political committee. Thus, it is unlikely that Local 108 PAC's funds were deposited into federal accounts.

B. June 11, 2007 Letter and Payroll Deduction Authorizations

On June 11, 2007, Floyd Suggs, who is Business Manager and Financial Secretary of Local 108, sent out a letter to SECO employees who were covered by the Collective Bargaining Agreement, which apparently covers both union and non-union members. In this letter, Suggs states, "... I encourage employees to contribute to the United Way through direct donations and maintain political action through the union PAC Fund."³

³ The complaint states that a number of SECO employees recently terminated their payroll deductions to Action Committee for Rural Electrification ("ACRE"), the political committee established for cooperatives such as SECO,

1 The complaint alleges that the statement in this letter encouraging employees to
2 “maintain political action through the union PAC Fund” constituted a solicitation for
3 contributions to the IBEW PAC through the Local 108 PAC and was required to include notices
4 of the political purpose of the SSFs and rights of union members to refuse to contribute without
5 reprisal. Moreover, the complaint alleges that the Respondents sent the solicitation letter to
6 employees who are not members of the union and explicitly urged all employees of SECO to
7 contribute. In addition, the complaint alleges that the payroll deduction cards completed by
8 employees to authorize SECO to deduct monthly contributions for Local 108 PAC similarly
9 were required to contain notices concerning the voluntariness of contributions.

10 **III. LEGAL ANALYSIS**

11 As a threshold matter, Respondents argue that Local 108 PAC is not a federal political
12 committee, and thus the alleged solicitations in the July 11, 2007 letter and the payroll deduction
13 cards were not subject to the Act. Under 2 U.S.C. § 431(4)(B), the term “political committee”
14 means “any segregated fund established under the provisions of section 441b(b).” In contrast to
15 section 431(4)(A), which provides that an organization becomes a political committee if it
16 receives contributions or makes expenditures in excess of \$1,000, a SSF has no monetary
17 threshold. *See* 2 U.S.C. § 431(4)(B).⁴ Thus, if Local 108 PAC spends any amount of money on
18 a federal election, it becomes a federal political committee under section 431(4)(B) and is subject
19 to the requirements of the Act.

in support of Local 108’s protest of decisions made by SECO management. Suggs’ letter appears to be in response to a memorandum distributed by management.

⁴ In AO 2003-29 (National FOP PAC), the Commission determined that a non-federal committee became a federal committee once it transferred any amount of funds to its national affiliate, which had a registered federal committee. The Commission stated, “Under 2 U.S.C. § 431(4)(B), a separate segregated fund is a political committee regardless of the amount of contributions or expenditures it makes” AO 2003-29 at 6.

Between January 2002 through February 2007, virtually all of Local 108's campaign expenditures went to state and local committees and candidates, and the three payments to political committees associated with national or local IBEW organizations appear to have been non-federal. *See supra* p. 3. Given that the available information suggests that Local 108 PAC is not a federal political committee, the Commission need not specifically address the complainant's solicitation allegations.

IV. CONCLUSION

For the foregoing reasons, there is no reason to believe that respondents violated 2 U.S.C. § 441b(b)(3) and 11 C.F.R. § 114.5(a), and there is no reason to believe that respondents violated 2 U.S.C. § 441b(b)(4)(A)(ii) and 11 C.F.R. § 114.5(g)(2).

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