

Federal Election Commission
C/O Erinn D. Larkin, Campaign Finance Analyst
999 E Street, NW
Washington, DC 20463

Identification Number: C00011114

Reference: Amended October Monthly Report (9/1/08 - 9/30/08)

This responds to your February 13, 2009 letter regarding the above-referenced report of American Federation of State, County & Municipal Employees PEOPLE ("the Committee").

On Schedule B of this report, the Committee disclosed a September 12, 2008 expenditure in the amount of \$30,551.00, which was paid to the Committee's connected organization for "Fundraising merchandise costs." You requested that the Committee clarify this expenditure. In addition, you stated that any portion of these costs made on behalf of specifically identified federal candidates should be reported as either independent expenditures or contributions to candidates.

This expenditure for Fundraising merchandise costs constituted neither an independent expenditure for, nor a contribution to, any candidate. Instead, and as explained below, the expenditure constituted a reimbursement of a portion of the costs incurred by the Committee's connected organization for the purchase of merchandise produced for use as fundraising premiums for the Committee's own solicitation efforts. For this reason, the expenditure was properly reported on Schedule B, line 21b.

The Federal Election Campaign Act of 1971, as amended, 2 U.S.C. 431, et seq., (the "Act") and the Commission's implementing regulations specifically permit a labor organization to pay the costs associated with the "establishment, administration and solicitation of contributions to its separate segregated fund." 11 C.F.R. 114.5(b). However, a labor organization "may not use the establishment, administration, and solicitation process as a means of exchanging treasury monies for voluntary contributions." *Id.*

Moreover, the Commission's regulations permit a labor organization to employ raffles or other fundraising devices involving prizes, as well as dances, parties and entertainment to raise voluntary contributions for the labor organization's separate segregated fund ("SSF"). See *id.* 114.5(b)(2). But, the Commission's "One-Third Rule" provides that, in order to avoid exchanging treasury funds for voluntary contributions, "[w]hen using raffles or entertainment to raise funds, a reasonable practice to follow is for the [SSF] to reimburse the labor organization for costs which exceed one-third of the money contributed." See *id.* In various Advisory Opinions, the Commission has applied its One-Third Rule to a connected organization's use of premium gifts as incentives for contributions to an SSF. See, e.g., AOs 1981-7 and 1999-31. Thus, if a labor organization purchases merchandise for use as fundraising premiums for its SSF, the SSF must reimburse the labor organization for the costs of that merchandise which exceed one-third of the funds contributed in response to the use of the merchandise as fundraising premiums.

The Committee's September 12, 2008 expenditure for Fundraising merchandise costs was made for the purpose of complying with the Commission's One-Third Rule. AFSCME International, the Committee's connected organization, purchased a large stock of merchandise for use as fundraising premiums for the Committee's 2008-2009 fundraising program. This merchandise (which includes such items as AFSCME PEOPLE logo jackets, polo shirts, t-shirts, socks, hats, scarves, glasses, and similar items) is offered for sale to members of AFSCME International's restricted class as an incentive for contributing to the Committee. (The receipts from these sales are deposited into the Committee's account and are reported to the Commission as contributions.)

ETEXT ATTACHMENT

A large fundraising event for the Committee was held in July and August, 2008 at which the fundraising merchandise was used. In order to comply with the One-Third Rule, the Committee paid AFSCME International \$30,551 in order to ensure that the costs of the fundraising merchandise purchased by AFSCME International will not exceed one-third of the funds raised.

We hope this sufficiently explains this expenditure. If you require any additional information regarding this matter, please do not hesitate to contact us.
