

REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: October 18, 2005

ANALYST: Maureen Benitz

- I. COMMITTEE: International Brotherhood of Electrical Workers Local
98 Committee on Political Education
(C00162818)
John Dougherty, Treasurer
1719 Spring Garden Street
Philadelphia, PA 19130
- II. RELEVANT STATUTE: 2 U.S.C. §434(b)(6)(B)(iii)
2 U.S.C. §434(g)(1) and (2)
11 C.F.R. §104.4(b)(2) and (c)

III. BACKGROUND:

Failure to Provide Supporting Schedules (Failure to File 48-Hour Notices and 24-Hour Notices)

The International Brotherhood of Electrical Workers Local 98 Committee on Political Education ("the Committee") failed to file one (1) 48-Hour Notice to support an independent expenditure totaling \$68,284.00 made between January 1st and the 20th day before the 2004 General Election and one (1) 24-Hour Notice to support three (3) independent expenditures totaling \$56,088.97 made after the 20th day, but more than 24 hours before the 2004 General Election (Attachment 2).

A Prior Notice listing the official filing dates of the Pre-General and Post-General Reports for Quarterly filers during the 2004 calendar year was sent to the Committee on September 27, 2004. The notice included a section titled 48- and 24-Hour Reports on Independent Expenditures. This section read: "Any PAC or Party Committee that makes independent expenditures in connection with an election may also have to file 48-hour or 24-hour reports. The 48-hour reporting requirement will be triggered each time the committee makes independent expenditures aggregating \$10,000 or more between January 1st and the 20th day before the election. The 24-hour reporting requirement will

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be triggered each time the committee makes independent expenditures aggregating \$1,000 or more after the 20th day, but more than 24 hours, before the day of the election. See 11 CFR 104.4. These reports are *not* required when a Party Committee or PAC makes a contribution directly to a candidate" (Attachment 3).

On October 14, 2004, the Committee filed a 12 Day Pre-General Report (Image 24971669152) which included a Schedule E (Itemized Independent Expenditures) disclosing two (2) independent expenditures totaling \$69,764.00 made on behalf of two (2) federal candidates. Of these independent expenditures, one (1) totaling \$68,284.00 required a 48-Hour Notice to be filed (Image 24971669165).

On November 17, 2004, a Request for Additional Information ("RFAI") was sent to the Committee referencing the 2004 12 Day Pre-General Report. The RFAI noted that the Committee may have failed to file one or more of the required 48-Hour Notices for independent expenditures. In addition, the RFAI stated that, although the Commission may take further legal action, the Committee's prompt response concerning the matter would be taken into consideration. A chart was included with the RFAI identifying the independent expenditure, of \$68,284.00, for which a 48-Hour Notice had not been filed (Image 24038620969).

On November 29, 2004, the Committee called a Reports Analysis Division ("RAD") analyst seeking clarification on the November 17, 2004, RFAI referencing the 2004 12 Day Pre-General Report. The Committee inquired about the reporting requirements for the 48-Hour Notices. The Analyst explained the requirements and suggested that the Committee file the missing notices as soon as possible (Attachment 4).

On December 7, 2004, the Committee filed two (2) 48-Hour Notices to support independent expenditures totaling \$69,764.00 disclosed on the 2004 12 Day Pre-General Report, and \$55,785.81 in independent expenditures which appeared to have been publicly distributed or disseminated during the 2004 30 Day Post-General reporting period (10/14/04-11/22/04), but were not yet disclosed on that report, which was filed on December 1, 2004 (Images 24981748606 and 24981748788).¹ In addition, the Committee filed a miscellaneous electronic submission on December 7, 2004, in reference to the 48-Hour Notice filed for the independent expenditures disclosed on the 12 Day Pre-General Report which stated in part, "The above referenced FEC file was a 48 hour notice that we had failed to file timely. A notice sent to us on 11/17/04 brought this matter to our attention and prompted us to send the required 48 hour notice. This matter was a misinterpretation on our part of the laws regarding 48 hour notices" (Image 24981748607).

On December 18, 2004, the Committee filed one (1) 48-Hour Notice to support an independent expenditure totaling \$303.16 which appeared to have been publicly

¹ The two independent expenditures totaling \$55,785.81 were disclosed on the Amended 2004 30 Day Post-General Report with a distribution/dissemination date of October 29, 2004 and November 16, 2004 respectively (Image 25990209915).

distributed or disseminated during the 2004 30 Day Post-General reporting period (10/14/04-11/22/04), but was not yet disclosed on that report (Image 24981799743).

On December 22, 2004, a Reports Analysis Division ("RAD") analyst called John Dougherty, the Committee's treasurer. The Analyst explained that the failure to timely file a 48-Hour Notice was a matter which would be referred to the Office of General Counsel (Attachment 4).

On December 22, 2004, a RAD analyst also spoke with Megan Matkin, the individual who prepares and files the Committee's reports. The Analyst explained that the Committee would likely be referred to the Office of General Counsel for failure to timely file a 48-Hour Notice (Attachment 4).

On March 10, 2005, the Committee filed an Amended 2004 30 Day Post-General Report which included a Schedule E (Itemized Independent Expenditures) and a memo Schedule E disclosing four (4) independent expenditures totaling \$56,983.41 made on behalf of one (1) federal candidate. Of those independent expenditures, three (3) totaling \$56,088.97 required a 24-Hour Notice be filed. The Committee failed to file 24-Hour Notices for three (3) independent expenditures totaling \$56,088.97 for the 2004 General Election (Images 25990209915 through 25990209916).

On March 25, 2005, a RFAI was sent to the Committee referencing the Amended 2004 30 Day Post-General Report, received March 10, 2005. The RFAI noted that the Committee may have failed to timely file one or more of the required 48-Hour Notices for independent expenditures.² In addition, the RFAI stated that, although the Commission may take further legal action, the Committee's prompt response concerning the matter would be taken into consideration (Image 25038763157). A chart was included with the RFAI identifying two (2) independent expenditures, totaling \$55,785.81, for which a 48-Hour Notice had not been filed.³

On April 27, 2005, a RAD analyst called and left a message for John Dougherty, the Committee's Treasurer, and spoke with Megan Matkin, the Committee's representative, regarding the Amended 30 Day Post-General Report, received March 10, 2005. The Analyst explained that failure to file two (2) 48-Hour Notices was a matter which was being referred to the Office of General Counsel. The Analyst suggested the Committee file a miscellaneous electronic submission with any further clarifying information as to why the notices were not timely filed (Attachment 4).

On April 27, 2005, the Committee filed a miscellaneous electronic submission referencing the Amended 2004 30 Day Post-General report which stated in part, "Please

² Since the Committee actually filed 48-Hour Notices to support independent expenditures made during the 30 Day Post-General reporting period, they were questioned for not filing 48-Hour Notices timely. However, the independent expenditures occurred during the 24-Hour Notice timeframe (10/14/2004-10/31/2004).

³ The chart did not include one (1) independent expenditure totaling \$303.16.

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accept this letter as an explanation of the 48 hour notices that were not filed timely by our committee. Originally, we had misinterpreted the rules and requirements regarding 48 hour notices. This was brought to our attention by a letter from the Federal Election Committee dated November 17, 2004. At that time, we spoke to our Campaign Finance Analyst, who instructed us as to the rules and regulations of 48 hour notices. Upon further research, we realized our misinterpretation and promptly filed the required 48 hour notices, including the 48 hour notice for the two disbursements that were listed in your most recent letter." (Image 25990594081)

To date, there have been no further communications provided by the Committee regarding this matter.

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