Withdrawal/Redaction Sheet
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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. list	[Personally Identifiable Information] [partial] (6 pages)	03/14/1996	b(6)

COLLECTION:
Clinton Presidential Records
Chief of Staff
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FOLDER TITLE:
Laborers' International Union of North America (LIUNA)

2024-0267-S
rs4063

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

65109 Michael call w/ changes

Talking Points on LIUNA Report
Issued by House Judiciary Republicans

- **The Justice Department reached a settlement with LIUNA (Laborers International) on its own without any pressure from the White House.**
  - The White House did not contact the Justice Department at any time in any effort to influence the investigation.
  - The only contacts between the White House and the Justice Department concerning the investigation were appropriate and in accordance with the White House contacts policy.
- **Neither LIUNA nor Mr. Coia received any special or improper treatment from the White House.**
  - Arthur Coia's visits to the White House were no different in number or in kind than those of other labor leaders -- or business executives -- in this or any other administration.
  - Mr. Coia, as President of a significant labor union, was invited to the White House for social functions, consistent with his position as LIUNA President.
  - Out of 19 visits to the White House, Mr. Coia only personally met with the President two times - and never alone.
  - Mr. Coia never played golf with the President.
  - Mr. Coia did not fly on Air Force One.
  - Mr. Coia's correspondence with the White House concerning grant proposals, invitations to events, and issues of concern to LIUNA, were all handled by the White House in a routine and proper manner.
- **There was nothing improper in the First Lady's speaking at the LIUNA Trifund Conference in February 1995.**
  - The First Lady agreed to speak at the conference in July 1994 before she or anyone on her staff was aware of the Justice Department investigation.
  - In the course of preparing for her speech, the First Lady was informed of the investigation and advised not to meet privately with Mr. Coia.

- At the conference, the First Lady spoke about health care issues, and avoided any private meetings with Coia.

- **The Republican-run hearings were a one-sided, politically motivated production, which conspicuously avoided scrutinizing allegations of Republican links to organized crime figures.**

  - Despite requests by Committee Democrats, Chairman Hyde and Subcommittee Chairman McCollum have refused to look into charges (Detailed in the 9/30/96 Newsweek and elsewhere) that GOP Vice Presidential candidate Jack Kemp had involved himself with organized crime associates and officials within LIUNA.

Republican Attack:

The release of the House Judiciary Committee report on its "labor corruption" hearings is aimed as a pre-debate attempt to link the Clinton White House to labor unions, which allegedly were penetrated by organized crime elements.

Response:

The hearings this past summer showed absolutely no improper contacts or ties between the Clinton White House and LIUNA. If anything, the hearings vindicated the probity of the White House in **not** interfering with a Justice Department investigation of LIUNA. Five career prosecutors testified that there were no improper White House contacts with the Department.

Interestingly, what was conspicuously absent in these "labor corruption" hearings was any scrutiny of charges (detailed in 9/30/96 Newsweek and elsewhere) that GOP Vice Presidential candidate Jack Kemp had involved himself with organized crime associates and officials of LIUNA when he was a Congressman from Buffalo, New York.

Although on September 18, the Democratic Ranking member of the Committee, Rep. John Conyers, had requested to Chairman Hyde that the Committee probe the Kemp allegations further, no action has been taken.

Arthur Coia

Visits to the White House

May 1, 1996	Wolf Trap Reception
December 21, 1995	Meeting with Building and Construction Trades Union Presidents
December 6, 1995	Holiday Reception
September 11, 1995	DNC BLF Reception
November 8. 1994	Election Day Reception
November 10, 1994	Health Care Reception
October 20, 1994	DNC Dinner
September 30, 1994	Labor Council Breakfast
August 3, 1994	Health Care Bus Arrival
June 28, 1994	Breakfast
May 12, 1994	Coffee
May 10, 1994	AFL-CIO Meeting
May 4, 1994	School-to-Work Bill Signing
April 19, 1994	DNC Trustees Reception
March 9, 1994	Reemployment Act Signing
September 1, 1993	Labor Day Reception
June 16, 1993	Private Dinner in the residence (30-40 people)
May 4, 1993	Dinner with the Executive Council of the AFL-CIO.
December 1, 1993	DNC Managing Trustees Dinner

Invited to various along w/other leaders of business, labor, private sector

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Gifts to the President

December 1993	Laborers baseball hat and a box of golf balls
June 1993	Basketball signed by Larry Bird
October 1994	Magazine and a golf shirt
October 1995	Laborers tie

No one can find a record of the golf club(s) in the Gift Unit or Nancy Hernreich's office.

STATES OF THE CAMPAIGN

Republican State of Anxiety: ARIZONA

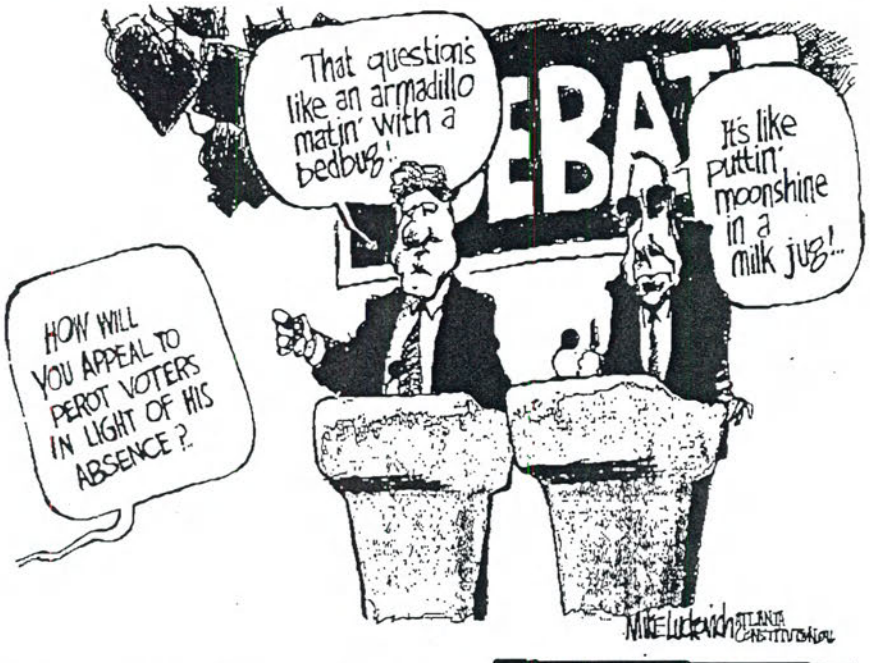
1992 VOTE:
Bush: 38% Clinton: 37% Perot: 24%

The Dole campaign very much wants to avoid the embarrassment of losing this Republican bastion. Clinton almost snatched the state four years ago, and polls indicate he could grab it this time. Last week Dole brought his anticrime message to Barry Goldwater's home state, worth eight electoral votes. Dole also made sure to pay a courtesy call on the conservative patriarch (who has already endorsed him), just as President Clinton did the week before. G.O.P. Senator John McCain flatly told the Omaha *World Herald* that Clinton would not carry Arizona: "Bob Dole just needs to stick to his message." And perhaps visit again.

Democratic Sacrificial State: UTAH

1992 VOTE:
Bush: 43% Perot: 27%
Clinton: 25%

Infuriating the state's political leadership, including powerful G.O.P. Senator Orrin Hatch, President Clinton announced the creation of the 1.7 million–acre Grand Staircase–Escalante National Monument in southern Utah. The decision is designed to protect some of the country's most striking landscape from development by powerful coal-mining interests in the region. The move, Clinton strategists believe, may win the environmentalist electorate in other states more crucial than Utah, which has only five electoral votes. Not unintentionally, the President made his announcement atop the Grand Canyon—out of Utah and in next-door Arizona.



The Presidential "Paw Poll"



Leader: 51.5%
Socks: 48.5%

Bob Dole's Schnauzer is running slightly ahead of Bill Clinton's tabby in a decidedly unscientific Internet election

Source: www.clinton.com

STUMP WIT

ITEMS IN PRESIDENT CLINTON'S MEDICAL FILE: #5. Soreness in lower back from years of flip-flopping.

Source: Top 10 List *The Late Show with David Letterman*, CBS, 9/17/96

Singing Another Tune

Republicans used to love Ron Fino. "Gutsy" and "knowledgeable" was how they described him in July when Fino, an informant for the FBI, testified at hearings of the House Judiciary Subcommittee on Crime about links between organized crime and labor unions, including one headed by a major supporter of Bill Clinton's. They may have different words for him now that Fino has linked another name to the mob—Jack Kemp's.

Fino has told FBI investigators and Democratic committee staff members about a Buffalo, New York, hotel developer, James Cosentino, who was a Kemp friend and contributor. (Documents from the Federal Election Commission show that Cosentino and his family gave $6,300 to Kemp's campaign in the mid-'80s.) According to Fino, Cosentino was tied to the mob—a charge he denies. In the 1980s, when Kemp was a Buffalo Congressman, Cosentino allegedly got at least $5 million in loans for a hotel construction project from a pension fund of the Buffalo local of the Laborers' International Union of North America, a union that recently signed a consent decree acknowledging mob influence. Fino, business manager of the local, has told investigators that the reputed head of the Buffalo Mob ordered the loans. Fino has said Cosentino and a former Kemp aide both told him that Kemp helped Cosentino get millions in federal money for the project.



Jack Kemp

According to Fino, Kemp once asked him point blank whether Cosentino was connected to the mob (Fino says he told him yes), but Fino is hazy about when this exchange took place. Alixe Glen, Kemp's spokeswoman, calls the allegations "unfounded" and "politically motivated." Representative John Conyers of Michigan, the Judiciary Committee's ranking Democrat, has formally requested that the committee bring Fino back to Washington for questioning. —**Reported by Viveca Novak/Washington**

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ONE HUNDRED FOURTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY
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WASHINGTON, DC 20515–6216
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September 18, 1996

The Honorable Henry Hyde
Chairman
House Judiciary Committee
2137 Rayburn Building
Washington, D.C. 20515

Dear Mr. Chairman:

During the recent Committee hearings regarding the consent agreement entered into by the U.S. Department of Justice and the Laborers' International Union of North America, the Committee summoned numerous witnesses to discuss various issues surrounding the agreement, including whether the White House had improper contacts with officials within the Laborers' International who were accused of having associations with organized crime. While I believed that line of inquiry had little evidence to support it, the majority disagreed and nevertheless pursued it with remarkable vigor.

Quite ironically, one of the Committee's principle witnesses in this regard, FBI informant Ronald Fino, is now alleging that Republican Vice-Presidential candidate Jack Kemp has knowingly involved himself with organized crime associates and officials within the Laborers' International, who prior to the consent agreement, were involved in illegal activities. More specifically, this Republican-called witness is now alleging that Secretary Kemp claimed to have personal knowledge that certain named individuals were involved with organized crime, that alleged associates of organized crime contributed to Secretary Kemp's political campaigns, and that such persons benefitted from federal grants and contracts as a result of Secretary Kemp's efforts on their behalf. Further, this Republican-called witness alleges that an allegedly prominent and well known organized crime figure supported a fundraising event for Secretary Kemp. A 1988 Congressional hearing confirmed that one of Secretary Kemp's contributors was tied with Envirosure Management Corp., a corporation linked to firms with alleged organized crime connections in Buffalo and Kansas City.

If the standard that was used to decide that hearings should be held on the Clinton White House associations with the Laborers International were used for Secretary Kemp, I am sure we

would be in the middle of full scale Congressional hearings right now. However, I do not subscribe to that view and am not at this time asking for such hearings, even though some might want to point out "what is sauce for the goose, is sauce for the gander."

Nevertheless, the fact that such serious allegations are being made by a witness the majority obviously considers so credible as to present him as a principle witness at earlier hearings, and who was lionized by Republicans at the Laborers' hearing for his credibility, indicates to me that further inquiry into this matter is required.

Therefore, I am asking that, out of a sense of evenhandedness and fair play, you approve travel for Mr. Fino to Washington D.C. so that he may be further interviewed by Judiciary Committee staff.

Sincerely,

John Conyers, Jr.
Ranking Minority Member

ROLL CALL
September 23, 1996, at A3

Conyers Wants Judiciary to Hear More From Witness Alleging Kemp Mob Ties

By Juliet Eilperin

Judiciary Committee ranking member John Conyers (D-Mich) has asked the panel's chairman, Rep. Henry Hyde (R-Ill), to bring back to Washington a witness whose controversial allegations linked GOP vice presidential candidate Jack Kemp to organized crime.

Former Buffalo, N.Y., union official Ronald Fino testified before the Judiciary crime subcommittee on July 24 about links between organized crime and the Laborers' International Union of North America. While he was roundly praised by GOP Members at the time, Democrats are now asking the majority to consider allegations he made in a private briefing with the committee Democrats' special counsel, John Flannery (Roll Call, Aug. 26).

According to Flannery's contemporaneous notes of the meeting, Fino said he had "information about Kemp," adding that the local union members "endorsed another" candidate for Congress.

The statement is apparently a reference to comments Fino made about the 1986 House race, which appeared in a Buffalo News article dated Feb. 19, 1995. In the piece, Fino said local members had wanted to endorse a former Common Council member, James Keane. But the union's officers had other plans in mind.

"I was told to go and support Jack Kemp," Fino said.

According to the article, Fino decided to abstain instead. The union ended up endorsing Kemp anyway.

Fino, a longtime FBI informant, testified last month that LIUNA officials had extensive ties to members of the Cosa Nostra.

Conyers, in his Sept. 18 letter to Hyde, details several allegations by Fino concerning Kemp. He writes, "This Republican-witness is now alleging that Secretary Kemp claimed to have personal knowledge that certain named individuals were involved with organized crime, that alleged associates contributed to Secretary Kemp's political campaigns, and that such persons benefited from federal grants and contracts as a result of Secretary Kemp's efforts on their behalf."

Kemp spokeswoman Alixe Glen called Conyers's letter "campaign season politics," and said, "Kemp's entire career in Congress was unblemished. There has never been any suggestion or evidence of any association whatsoever, or any ties to individuals of ill repute."

Fino has charged that "an allegedly prominent and well known organized crime figure supported a fundraising event for Secretary Kemp," Conyers writes. "A 1988 Congressional hearing confirmed that one of Secretary Kemp's contributors was tied with Envirosure Management Corp., a corporation linked to firms with alleged organized crime connections in Buffalo and Kansas City."

It is unclear whether the majority will grant Conyers's request, which includes paying Fino's travel expenses. The issue may become increasingly heated as the election nears, since the parties have been sparring over Democrats' close ties to unions.

SIX PLAIN TRUTHS FROM THE DEMOCRATIC SPECIAL COUNSEL'S REPORT ON THE "INVESTIGATION" INTO THE DOJ-LIUNA ENFORCEMENT AGREEMENT

- **THIS "HEARING" IS THE CULMINATION OF A WELL-ORCHESTRATED EXERCISE IN INNUENDO --- NO ONE HAS CHARGED A SINGLE SPECIFIC PERSON IN THE ADMINISTRATION WITH A SINGLE SPECIFIC ACT OF WRONGDOING.**

As anxious as Republicans are to smear Labor, they have a problem: the DOJ-LIUNA enforcement agreement was the product of tough career lawyers who have dedicated their lives to busting the mob. ***There is not a single shred of evidence that anyone improperly contacted or attempted to influence these career prosecutors, or that they would have responded in the tiniest degree to such an attempt.*** So the Republicans refuse to "name names." Instead, they are relying on innuendo and guilt by association to smear Labor, the President, his advisers, and the First Lady.

- **All Americans -- Democrats and Republicans alike -- welcome vigorous investigations into corrupt infiltration of organized labor:**

It's precisely because we Democrats share organized labor's dream -- a decent break for America's working men and women -- that we welcome honest clean-up efforts. **We don't want crooks stealing our dream.** That's why Democrats (from Estes Kefauver and Bobby Kennedy to the present) have been tough on mobsters. And that's why Crime Subcommittee Democrats hired a Special Counsel to independently investigate Republican allegations about the DOJ-LIUNA enforcement agreement.

- **But the Republican majority is using the Congressional hearing forum to advance a partisan attack on labor:**

Americans don't have to guess about why this "hearing" is being held. The Republican leadership has left a paper trail a mile long. That trail leads right to the door of the Judiciary Committee hearing room. From the notorious Nussle-Walker memo to the partisan Boehner memos (detailed in the Special Counsel's report), the record is clear: the Republican leadership is out to "get" organized labor. This hearing is a Republican ax handle aimed at the heads of America's working people.

- **In fact, the Clinton administration has been more aggressive about rooting out corruption in Labor than either the Reagan or Bush administrations were.**

The Special Counsel's report makes clear that two Republican administrations sat

on their hands about allegations of corruption in LIUNA, even after a Presidential Commission urged action. No serious clean-up effort began until Bill Clinton became President.

- **The bottom line is that the DOJ-LIUNA enforcement agreement is an innovation --- smart, good government that's working:**

The DOJ-LIUNA enforcement agreement is a creative model of smart law enforcement. The union's internal enforcement team -- staffed by former high level FBI investigators and top Justice Department prosecutors -- has kicked out 36 corrupt LIUNA officials, charged 13 more, and continues to investigate still others. No one in the union is "off limits." All information is shared with career prosecutors and FBI officials at the Justice Department. **And this tough, streamlined procedure cuts out the lengthy federal criminal and civil trials that bog down the old Teamsters take-over model.**

In fact, in 1987, Newt Gingrich, Henry Hyde, and Bob Walker signed a letter opposing government takeovers of unions by civil RICO actions! History proved them -- and scores of Democrats and other Republicans who also signed the letter --- to be right. **Civil RICO takeovers (like the Teamsters takeover) have proven costly, slow, inefficient, bureaucratic nightmares that literally bankrupt unions.**

But today, Newt Gingrich is smearing the White House for doing exactly what he and Henry Hyde asked a Republican president to do. Why? What's the difference? Today, there is a Democrat in the White House. And a smart enforcement agreement that has given the Justice Department the keys to the union.

On any day, at any time, the career prosecutors at the Justice Department can walk into court and take over the union --- **and the union has signed away its right to protest**. Plus, the cost of this remarkably effective agreement is borne entirely by the union -- it doesn't cost the American taxpayer a penny.

- **LIUNA and the Justice Department have the tools to root out any further corruption. Democrats strongly support any necessary use of those tools.**

The enforcement agreement gives the union itself and the Justice Department a unique and effective set of tools to root out any further corruption -- no matter how high up it goes. Democrats support this power and have confidence that the career men and women at the Justice Department will use all of these tools to do the right thing.

LABORERS' INTERNATIONAL UNION of NORTH AMERICA
905 16th Street N.W., Washington, D.C. 20006
Phone: (202) 737-8320 FAX: (202) 737-2754

ARTHUR A. COIA
General President

R. P. VINALL
General Secretary-Treasurer

Fax Transmittal Form

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Date: 10/15/96

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No. of Pages: 4 (Includes Transmittal Form)

To: Jennifer O'Conner

Organization: White House

From: Donald Kmiewski

Subject: A Related Matter

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By Juliet Eilperin

The foundations of democracy have sprung a leak.

The Capitol's east steps, which were recently renovated at a cost to taxpayers of $2.1 million, leak water every time it rains in Washington.

Architect of the Capitol spokesman Ben Wimberly said the seepage is "no big thing." But one of the project's overseers told Roll Call that fixing the problem could cost as much as $200,000.

Continued on page 18

ing days of the 103rd Congress.

And on Sept. 27, Gephardt convinced Rep. Bill Richardson (D-NM) to resign from the Intelligence Committee in order to make room for Rep. Jane Harman (D-Calif), a sophomore who won re-election by only 812 votes in 1994. Democratic

(R-NY) and Pat Schroeder (D-Colo) were disposing of some last-minute, non-controversial legislation, and Schroeder thanked Solomon for scheduling a Colorado water project as

Continued on page 17

■ On the road: New Jersey's open 9th district, p. 9.

■ Charlie Wilson's moving back to...DC. Shop Talk, p. 9.

House Republicans Mount a New Anti-Labor Offensive

Ads Assail 'Big Lies'; Lawsuit Also Filed

By Benjamin Sheffner

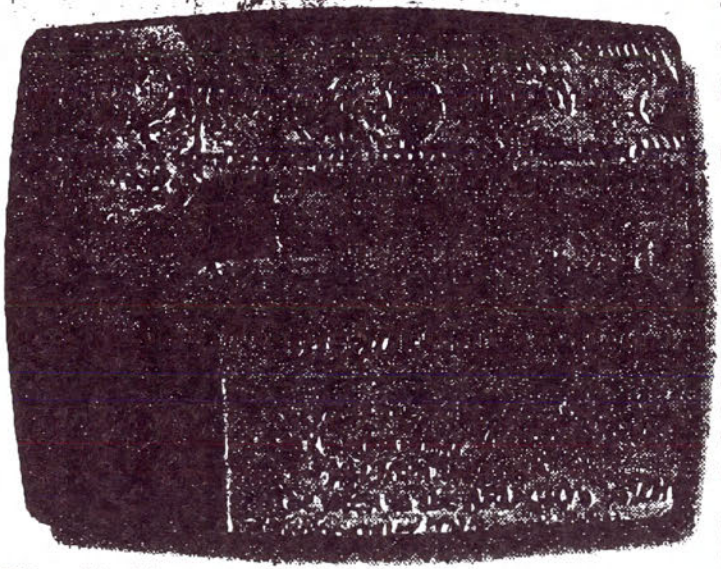
Incensed over unions' efforts on behalf of Democratic Congressional candidates, Republicans last week struck back on two fronts, launching a viciously anti-labor series of television ads and going to court to force the Federal Election Commission to act on its complaints.

"The big labor bosses," says the ad. "Big money. Big lies. Big liberals."

The AFL-CIO, as part of its $35 million campaign to return Congress to Democratic control, has been running millions of dollars of television advertising attacking vulnerable GOP incumbents over their voting records in the 104th Congress, and recently went on the air with video "voter guides" making unfavorable comparisons of the Republicans with their Democratic challengers.

In a compilation of labor spending released by the National Republican Congressional Committee, the GOP estimates that the AFL-CIO spent more than $10 million on television advertising in just the pe-

Continued on page 16



This spot is airing across the country.

Money From One Union Is Controversial

By Tim Curran

All across the country, Republicans are targeting spending by labor unions on behalf of Democratic contenders, but in several Congressional races GOP candidates have sharpened the focus of their attacks on one particular group: the Laborers International Union of North America (LIUNA).

Honing in on a Justice Department investigation into alleged ties between the union, its president

Continued on page 13



Photo by Maureen Keating

NRCC Chairman Bill Paxon announced the new ad campaign Friday.

10-15-1996 3:03PM FROM LIUNA LEGISLATION 2029422307 P. 2

GOP Candidates Attack Laborers' Union for Alleged 'Mob Ties,' But Republicans, Too, Take Donations From Them

Continued from page 1

Arthur Coia, and organized crime figures, Republicans have used the group's PAC contributions to link their opponents to "mob" money.

But Democrats are fighting back, pointing out that several Republicans have also been the beneficiaries of Laborer contributions, including Sen. Alfonse D'Amato (NY), chairman of the National Republican Senatorial Committee, House Rules Committee Chairman Gerry Solomon (NY), and House ethics committee Chairwoman Nancy Johnson (Conn).

The Laborers in 1995 struck a unique deal with the Justice Department under which they would work together to try to "clean up" any corrupt influences on the union, and Don Kaniewski, legislative and political director for the union, said Friday that the union now has "an ethics and disciplinary code that is so tough that if it was applied to the House of Representatives, [House Speaker Newt] Gingrich [R-Ga] would be gone."

He pointed to GOP claims that 40 percent of union members voted Republican in 1994 and advised Republicans to ask themselves: "Can they win without them, and if not, is this the way to keep them?"

"As far as we're concerned the Republicans have nothing else to talk about," Kaniewski said. "They have a lousy record with the Gingrich Congress [so] they decided to pick a scapegoat, and unfortunately they picked the wrong one." He said the attacks were simply "alienating working men and women. They're calling our workers mobsters." He also noted that "not a single individual Republican has returned a contribution" from the Laborers.

In fact, the National Republican Congressional Committee returned a $10,000 contribution from LIUNA on Sept. 25.

In a letter to NRCC executive director Maria Cino, Coia included a list of Republicans who received the union's support and found it "perfectly acceptable." Coia called the NRCC decision to return the funds "regrettable. I believe it reflects the extremism and contempt for working men and women that the House leadership has exhibited during the 104th Congress."

"It's just politics," Kaniewski said. "We're going to respond by informing our members" not just in these districts where the ads are running, but also nationwide, "of what the Republican party thinks of them."

One of the campaigns where the issue has erupted is in Arizona's 6th district, where freshman Rep. J.D. Hayworth (R) is facing a barrage of advertising by the AFL-CIO and an aggressive challenge from Democrat Steve Owens.

Last week Hayworth began running ads using the Laborers' support for Owens to link the Democrat to "organized crime," and Owens struck back quickly, demanding an apology for both himself and the Republican Members of Congress who took Laborers money. He called the Hayworth ad "sleazeball tactics."

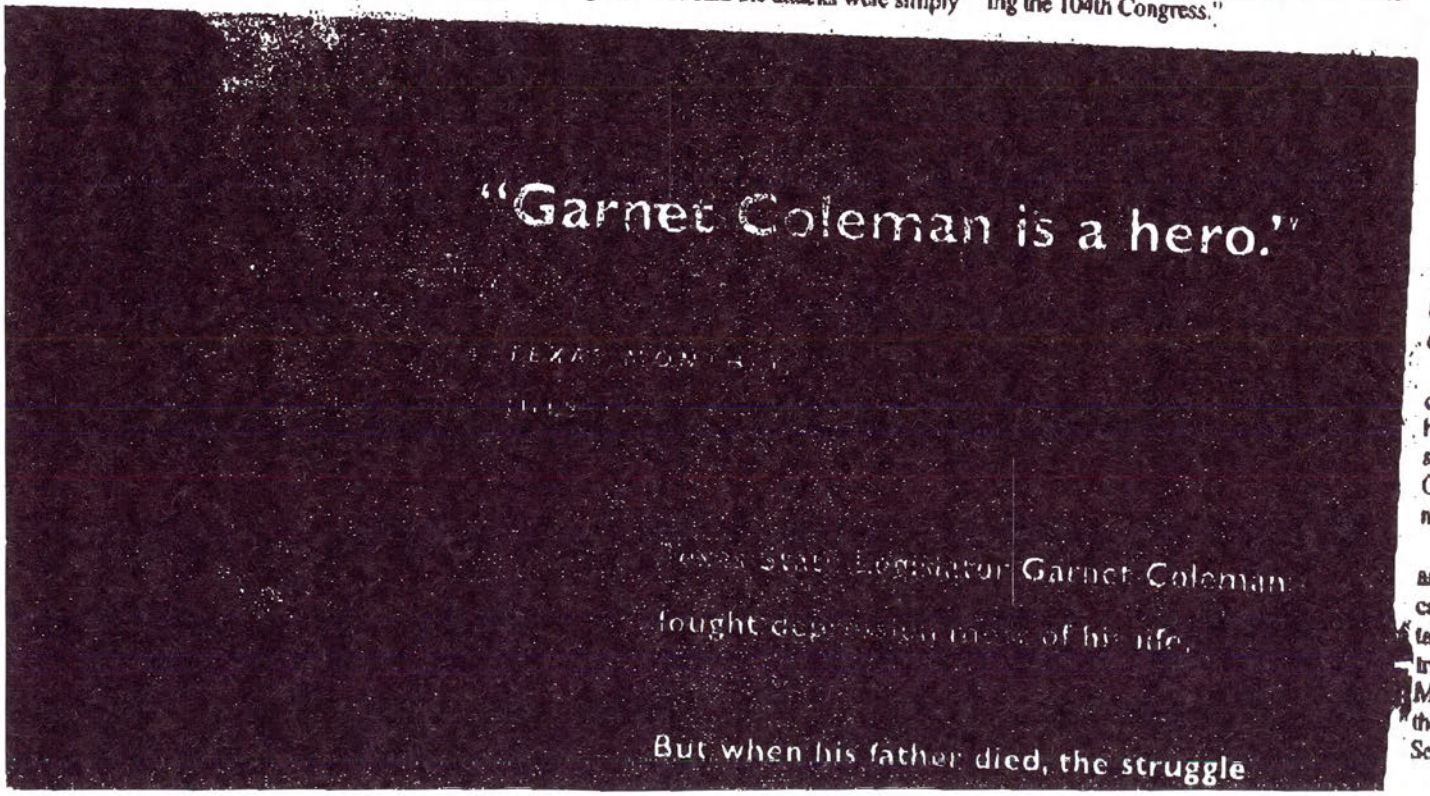
Owens spokesman Bob Grosfeld said that there had been "a massive backlash" against Hayworth, but the Congressman has declined to pull the ads.

"We sought to highlight...that he gets 80 percent of his PAC contributions from labor unions" and is the beneficiary of a $1 million advertising campaign by the AFL-CIO on his behalf, Hayworth campaign manager Scott Cooley said Friday.

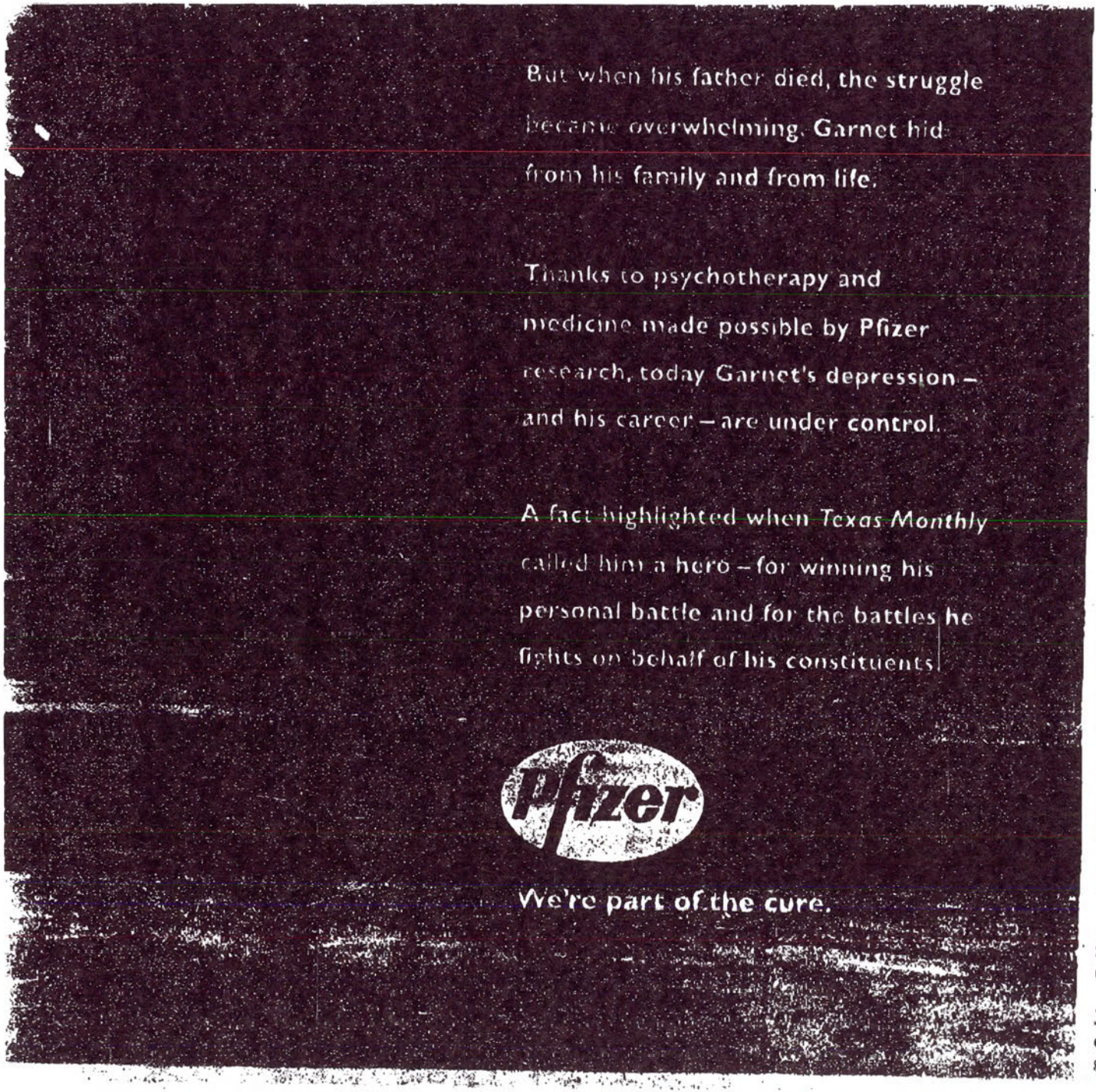
He also pointed out that Hayworth never called on Owens to return the money. "We have taken this opportunity to make absolutely clear to the people of Arizona that Mr. Owens is completely in the pocket of organized labor."

Other races where the issue has popped up are the contest for the at-large seat being vacated by Rep. Tim Johnson (D) in South Dakota; Indiana's 8th district; Nebraska's 2nd district; the New York matchup between Rep. Maurice Hinchey (D) and Sue Wittig (R); and the Alabama Senate race to succeed retiring Sen. Howell Heflin (D).

In Alabama, state Attorney General [illegible]



10-15-1996 3:04PM FROM LIUNA LEGISLATION 2029422307 P. 3



Maurice Hinchey (D) and Sue Wittig (R); and the Alabama Senate race to succeed retiring Sen. Howell Heflin (D).

In Alabama, state Attorney General Jeff Sessions (R) recently began airing a television spot that criticizes his opponent in the Senate race, state Sen. Roger Bedford (D), for taking "mob money" and portraying himself as tough on crime. It was not the first time Sessions has sought to make the connection, and Bedford's campaign has not been caught flat-footed.

"He has solicited money from the same organization at least three times," Bedford press secretary Jennifer Greeson said of Sessions Friday. "He's been quite hypocritical." She even produced one fundraising solicitation from the Sessions campaign directly to LIUNA.

"If it's dirty money," Greeson said, "it's only dirty from the sweat and grit of hard-working Alabamians."

Beside D'Amato, Johnson, and Solomon, other Republicans who have accepted contributions from LIUNA's PAC in the 1996 cycle include Sens. Ted Stevens (Alaska), Mark Hatfield (Ore), and Arlen Specter (Pa), and Reps. Richard Baker (La), Bill Barrett (Neb), Peter Blute (Mass), Sherwood Boehlert (NY), Phil English (Pa), Tom Ewing (Ill), Michael Forbes (NY), Jon Fox (Pa), Bob Franks (NJ), Rodney Frelinghuysen (NJ), Daniel Frisa (NY), Jack Metcalf (Wash), Bob Ney (Ohio), Chris Smith (NJ), Jim Walsh (NY), Curt Weldon (Pa), and Jerry Weller (Ill).

Also, Reps. Don Young (Alaska), Jerry Lewis (Calif), Lincoln Diaz-Balart (Fla), Dave Weldon (Fla), Ray LaHood (Ill), Dick Zimmer (NJ), Bill Martini (NJ), Ben Gilman (NY), Sue Kelly (NY), Rick Lazio (NY), John McHugh (NY), Jack Quinn (NY), and Joe McDade (Pa).

Christian Josi, campaign manager for Wittig's effort against Hinchey, said he was unmoved by the fact that prominent Republicans took money from the union.

"We urged him to give it back and still do," Josi said. " We're running in the 26th district of New York.... The other folks will have to speak to that themselves."

LABORERS' INTERNATIONAL UNION of NORTH AMERICA
905 16th Street N.W., Washington, D.C. 20006
Phone: (202) 737-8320 FAX: (202) 737-2754

ARTHUR A. COIA
General President

R. P. VINALL
General Secretary-Treasurer

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gl

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To: Jennifer O'Connor

Organization: LWH

From: Donald Kaniewski

Subject: Kemp

- [x] For Your Information
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- [ ] For Your Report
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Jennifer - Attached are various press reports of interest re Kemp

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LEVEL 1 - 2 OF 34 STORIES

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Time

September 30, 1996

SECTION: CAMPAIN NOTEBOOK; Pg. 16

LENGTH: 309 words

HEADLINE: SINGING ANOTHER TUNE

BYLINE: REPORTED BY VIVECA NOVAK/WASHINGTON

BODY:

Republicans used to love Ron Fino. "Gutsy" and "knowledgeable" was how they described him in July when Fino, an informat for the FBI, testified at hearings of the House Judiciary Subcommittee on Crime about links beteen organizd crime and labor unions, including one headed by a major supporter of Bill Clinton's. They may have different words for him now that Fino has linked another name to the mob--Jack Kemp's.

Fino has told FBI investigators and Democratic committee staff members about a Buffalo, New York, hotel developer, James Cosentino, who was a Kemp friend an contributor. (Documents from the Federal Election Commission show that Cosentin and his family gave $ 6,300 to Kemp's campaign in the mid-'80s.) According to Fino, Cosentino was tied to the mob--a charge he denies. In the 1980s, when Kem was a Buffalo Congressman, Cosentino allegedly got at least $ 5 million in loan for a hotel construction project from a pension fund of he Buffalo local of the Laborers' International Union of North America, a unon that recently signed a consent decree acknowledging mob influence. Fino,business manager of the local, has told investigators that the reputed head of the Buffalo Mob ordered the loans. Fino has said Cosentino and a former Kemp aide both told him that Kemp helped Cosentino get millions infederal money for the project.

According to Fino, Kemp once asked him point blank whether Cosentino was connected to the mob (Fino says he told him yes), but Fino is hazy about when this exchange took place. Alixe Glen, Kemp's spokeswoman, calls the allegations "unfounded" and "politically motivated." Representative John Conyers of Michigan, the Judiciary Committee's ranking Democrat, has formally requested that the committee bring Fino back to Washington for questioning.

--Reported by Viveca Novak/Washington

GRAPHIC: COLOR PHOTO: BROOKS KRAFT--SYGMA, Jack Kemp

LANGUAGE: ENGLISH

LOAD-DATE: September 23, 1996

LEVEL 1 - 26 OF 34 STORIES

Copyright 1996 U.P.I.

September 23, 1996, Monday, BC cycle

SECTION: General News

LENGTH: 412 words

HEADLINE: Dems question alleged Kemp mob ties

DATELINE: WASHINGTON, Sept. 23

BODY:
Democrats on a powerful House panel Monday asked for another chance to interview an FBI informant who alleged that Republican vice presidential nomine Jack Kemp had ties to organized crime. Michigan Rep. John Conyers, the top Democrat on the House Judiciary Committee, wants Chairman Henry Hyde, R-Ill., t bring back Ronald Fino for another round of questioning. A Kemp spokeswoman said the move was ''politically motivated.'' Fino, a former Buffalo, N.Y., unic official, testified earlier this summer about alleged links between the Laborers' International Union of North America and organized crime. The Republican-led panel also probed the union's associations with the Clinton administration. Fino was widely praised by Republicans for speaking out at the hearing. Democrats say Fino told the minority party's special counsel that Kemp, a former congressman from Buffalo and housing secretary during the Bush administration, allegedly knew that individuals associated with organized crime contributed to his political campaign -- and benefited from federal grants and contracts as a result. ''Further, this Republican-called witness alleges that an allegedly prominent and well-known organized crime figure supported a fund-raising event for Secretary Kemp,'' he said in a letter sent to Hyde. Ken spokeswoman Debbie Hohlt dismissed Fino's claims. ''These are unfounded allgations that are politically motivated,'' she said. Conyers noted in his letter that a 1988 congressional hearing ''confirmed'' that one of Kemp's contributors was tied to Envirosure Management Corp., ''a corporation linked to firms with alleged organized crime connections in Buffalo and Kansas City.'' The Democrat said he did not want another round of hearings, just a chance to have Fino interviewed or deposed by committee staff. ''If the standard that wa used to decide that hearings should be held on the Clinton White House associations with Laborers' International were used for Secretary Kemp, I am sure we would be in the middle of full scale congressional hearings right now,' Conyers said in the letter to Hyde. ''However, I do not subscribe to that view and am not at this time asking for such hearings, even though some might want t point out, 'what is sauce for the goose, is sauce for the gander.''' Conyers said Monday he has not received a response from Hyde to the letter, which was sent last week.

LANGUAGE: ENGLISH

LOAD-DATE: September 24, 1996

LEVEL 1 - 27 OF 34 STORIES

Copyright 1996 Reuters, Limited
Reuters World Service

September 23, 1996, Monday, BC cycle

LENGTH: 371 words

HEADLINE: FBI informant is said to link Jack Kemp to the mob

DATELINE: WASHINGTON, Sept 23

BODY:
An FBI informant told the staff of a House of Representatives committee that Republican vice presidential nominee Jack Kemp had links to organised crime figures, the committee's top Democrat said on Monday.

Representative John Conyers, a Michigan Democrat, asked the committee's Republican chairman, Rep, Henry Hyde of Illinois, to authorise further questioning of the informant, Ronald Fino.

Kemp spokeswoman Alixe Glenn called the charges referred to by Conyers "unfounded and politically motivated."

Fino testified last July at a House Judiciary Committee hearing on a consent agreement between the Labourers' International Union of North America and the Justice Department, under which the union agreed to rid itself of mob influence

The hearing focused on whether the White House had improper contacts with union officials accused of having associations with organised crime. Democrats charged the hearing was politically motivated.

In a letter to Hyde, Conyers said Fino "is now alleging that Republican vice president candidate Jack Kemp has knowingly involved himself with organised crime associates and officials within the Labourers International who, prior to the consent agreement, were involved in illegal activities."

An aide to Conyers said Fino presented the "circumstantial evidence" in an interview with committee staff and to the FBI. He said Conyers had not received a reply from Hyde to his Sept. 18 letter.

Conyers said Fino was alleging that Kemp "had claimed to have personal knowledge that certain named individuals were involved with organised crime, that alleged associates of organised crime contributed to (former Housing) Secretary Kemp's political campaigns and that such persons benefited from federal grants and contracts as a result of Secretary Kemp's efforts on their behalf."

Conyers said he was not asking for public hearings on Fino's allegations.

But referring to Republicans' praise for Fino as a witness during the July hearing, Conyers said, "Nevetheless, the fact that such serious allegations are being made by a witness the majority obviously considers so credible ... indicates to me that further inquiry into this matter is required."

LEVEL 1 - 23 OF 34 STORIES

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Congressional Press Releases

September 23, 1996, Monday

SECTION: PRESS RELEASE

LENGTH: 967 words

HEADLINE: CONYERS SEEKS PROBE OF ALLEGATIONS THAT KEMP HAS MAFIA TIES

BYLINE: JOHN CONYERS , CONGRESSMAN , HOUSE

BODY:

FOR IMMEDIATE RELEASE CONTACT: Rodney Walker

September 23 1996 202/225-5126

Conyers Seeks Probe of Allegations that

Kemp Has Mafia Ties

(Washington, D.C.)-- Rep. John Conyers, Jr. (D-NE), the Ranking Member on th House Judiciary Committee, has asked Chairman Henry Hyde (R-IL) to bring back a Republican witness who alleges that vice presidential candidate Jack Kemp has ties to organized crime. The witness, FBI Informant Ronald Fino, was one of many summoned by the Majority to testify about the consent agreement between th Justice Department and the Laborers' International Union of North America (LIUNA).

In a letter to Hyde, Conyers writes, Fino "is now alleging that Republican Vice-Presidential candidate Jack Kemp has knowingly involved himself with organized crime associates and officials within the Laborers' International, wh prior to the consent agreement, were involved in illegal activities." Conyers wants Fino to be interviewed or deposed by the Judiciary Committee minority and majority.

At the July hearing, Republican Members praised the informant Fino as being "knowledgeable," "forceul" and "gutsy." Conyers writes, "the fact that such serious allegations are being made by a witness the majority obviously consider so credible as to present him as a principle witness at earlier hearings. and who was lionized by Republicans at the Laborers' hearing for his credibility, indicates to me that further inquiry into this matter is required."

The letter continues, "This Republican-called witness is now alleging that Secretary Kemp claimed to have personal knowledge that certain named individual were involved with organized crime, that alleged associates of organized crime contributed to Secretary Kemp's political campaigns, and that such persons benefitted from federal grants and contracts as a result of Secretary Kemp's efforts on their behalf Further, this Republican-called witness alleges that an allegedly prominent and well known organized crime figure supported a fundraising event for Secretary Kemp. A 1988 Congressional hearing confirmed that one of Secretary Kemp's contributors was tied with Envirosure Management Corp., a corporation linked to firms with alleged organized crime connections i Buffalo and Kansas City." "If the standad that was used to decide that

hearings should be held on the Clinton White House associations with Laborers' International were used for Secretary Kemp, I am sure we would be in the middle of full scale Congressional hearings right now," Conyers continued. "However, do not subscribe to that view and am not at this time asking for such hearings, even though some might want to point out 'what is sauce for the goose, is sauce for the gander."'

As of today, Conyers has not received a response from Chairman Hyde.

September 18, 1996

The Honorable Henry Hyde

Chairman

House Judiciary Committee

2137 Rayburn Building

Washington, D.C. 20515

Dear Mr. Chairman:

During the recent Committee hearings regarding the consent agreement entered into by the U.S. Department of Justice and the Laborers' international Union of North America, the Committee summoned numerous witnesses to discuss various issues surrounding the agreement, including whether the White House had improper contacts with officials within the Laborers' International who were accused of having associations with organized crime. While I believed that line of inquiry had little evidence to support it, the majority disagreed and nevertheless pursued it with remarkable vigor.

Quite ironically, one of the Committee's principle witnesses in this regard, FBI informant Ronald Fino, is now alleging that Republican Vice-Presidential candidate Jack Kemp has knowingly involved himself with organized crime associates and officials within the Laborers' International, who prior to the consent agreement, were involved in illegal activities. More specifically, this Republican- called witness is now alleging that Secretary Kemp claimed to have personal knowledge that certain named individuals were involved with organized crime, that alleged associates of organized crime contributed to Secretary Kemp's political campaigns, and that such persons benefitted from federal grant and contracts as a result of Secretary Kemp's efforts on their behalf. Further this Republican- called witness alleges that an allegedly prominent and well known organized crime figure supported a fundraising event for Secretary Kemp. A 1988 Congressional hearing confirmed that one of Secretary Kemp's contributor was tied with Envirosure Management Corp., a corporation linked to firms with alleged organized crime connections in Buffalo and Kansas City.

If the standard that was used to decide that hearings should be held on the Clinton White House associations with the Laborers International were used for Secretary Kemp, I am sure we would be in the middle of full scale Congressional hearings right now. However, I do not subscribe to that view and am not at this time asking for such hearings, even though some might want to point out "what is sauce for the goose, is sauce for the gander."

Nevertheless, the fact that such serious allegations are being made by a witness the majority obviously considers so credible as to present him as a principle witness at earlier hearings, and who was lionized by Republicans at the Laborers' hearing for his credibility, indicates to me that further inquiry into this matter is required.

Therefore, I am asking that, out of a sense of evenhandedness and fair play, you approve travel for Mr. Fino to Washington D.C. so that he may be further interviewed by Judiciary Committee staff.

Sincerely,

John Conyers, Jr.

Ranking Minority Member

LANGUAGE: ENGLISH

LOAD-DATE: September 24, 1996

LEVEL 1 - 3 OF 9 STORIES

Copyright 1996 Roll Call Associates
Roll Call

September 23, 1996

LENGTH: 627 words

HEADLINE: Conyers Wants Judiciary to Hear More FromWitness Alleging Kemp Mob Ties

BYLINE: By Juliet Eilperin

BODY:

Judiciary Committee ranking member John Conyers (D-Mich) has asked the panel's chairman, Rep. Henry Hyde (R-Ill), to bring back to Washington a witness whose controversial allegations linked GOP vice presidential candidate Jack Kemp to organized crime.

Former Buffalo, N.Y., union official Ronald Fino testified before the Judiciary crime subcommittee on July 24 about links between organized crime and the Laborers' International Union of North America. While he was roundly praised by GOP Members at the time, Democrats are now asking the majority to consider allegations he made in a private briefing with the committee Democrats' special counsel, John Flannery (Roll Call, Aug. 26).

According to Flannery's contemporaneous notes of the meeting, Fino said he had "information about Kemp," adding that the local union members "endorsed another" candidate for Congress.

The statement is apparently a reference to comments Fino made about the 1986 House race, which appeared in a Buffalo News article dated Feb. 19, 1995. In the piece, Fino said local members had wanted to endorse a former Common Council member, James Keane. But the union's officers had other plans in mind.

"I was told to go and support Jack Kemp," Fino said.

According to the article, Fino decided to abstain instead. The union ended up endorsing Kemp anyway.

Fino, a longtime FBI informant, testified last month that LIUNA officials had extensive ties to members of the Cosa Nostra.

Conyers, in his Sept. 18 letter to Hyde, details several allegations by Fino concerning Kemp. He writes, "This Republican-witness is now alleging that Secretary Kemp claimed to have personal knowledge that certain named individuals were involved with organized crime, that alleged associates contributed to Secretary Kemp's political campaigns, and that such persons benefited from federal grants and contracts as a result of Secretary Kemp's efforts on their behalf."

Kemp spokeswoman Alixe Glen called Conyers's letter "campaign season politics," and said, "Kemp's entire career in Congress was unblemished. There

has never been any suggestion or evidence of any association whatsoever, or any ties to individuals of ill repute."

Fino has charged that "an allegedly prominent and well known organized crime figure supported a fundraising event for Secretary Kemp," Conyers writes. "A 1988 Congressional hearing confirmed that one of Secretary Kemp's contributors was tied with Envirosure Management Corp., a corporation linked to firms with alleged organized crime connections in Buffalo and Kansas City."

It is unclear whether the majority will grant Conyers's request, which includes paying Fino's travel expenses. The issue may become increasingly heated as the election nears, since the parties have been sparring over Democrats' close ties to unions.

Aftershocks

LANGUAGE: ENGLISH

LOAD-DATE: September 23, 1996

LEVEL 1 - 22 OF 34 STORIES

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Rocky Mountain News

September 24, 1996, Tuesday

SECTION: NEWS/NATIONAL/INTERNATIONAL; Ed. F; Pg. 2A

LENGTH: 134 words

HEADLINE: Kemp, mob link alleged

BYLINE: Reuter

DATELINE: WASHINGTON

BODY:
An FBI informant told the staff of a House committee that Republican vice-presidential nominee Jack Kemp had links to organized crime figures, the comittee's top Democrat said Monday.

Rep. John Conyers, D-Mich., asked the committee's chairman, Rep. Henry Hyde, R-Ill., to authorize further questioning of the informant, Ronald Fino.

Kemp spokeswoman Alixe Glenn called the charges ''unfounded.''

In a letter to Hyde, Conyers said Fino alleges that Kemp ''has knowingly involved himself with organized crime associates and officials within the Laborers International (Union of North America) who, prior to the consent agreement, were involved in illegal activities.''

LANGUAGE: English

LOAD-DATE: September 26, 1996

LEVEL 1 - 24 OF 34 STORIES

Copyright 1996 Reuters, Limited
Reuters North American Wire

September 23, 1996, Monday, BC cycle

LENGTH: 361 words

HEADLINE: FBI informant is said to link Jack Kemp to the mob

DATELINE: WASHINGTON

BODY:
An FBI informant told the staff of a House committee that Republican vice presidential nominee Jack Kemp had links to organized crime figures, the committee's top Democrat said Monday.

Rep. John Conyers, a Michigan Democrat, asked the committee's Republican chairman, Rep, Henry Hyde of Illinois, to authorize further questioning of the informant, Ronald Fino.

Kemp spokeswoman Alixe Glenn called the charges referred to by Conyers "unfounded and politically motivated."

Fino testified last July at a House Judiciary Committee hearing on a consent agreement between the Laborers' International Union of North America and the Justice Department, under which the union agreed to rid itself of mob influence

The hearing focused on whether the White House had improper contacts with union officials accused of having associations with organized crime. Democrats charged the hearing was politically motivated.

In a letter to Hyde, Conyers said Fino "is now alleging that Republican vice president candidate Jack Kemp has knowingly involved himself with organized crime associates and officials within the Laborers International who, prior to the consent agreement, were involved in illegal activities."

An aide to Conyers said Fino presented the "circumstantial evidence" in an interview with committee staff and to the FBI. He said Conyers had not received a reply from Hyde to his Sept. 18 letter.

Conyers said Fino was alleging that Kemp "had claimed to have personal knowledge that certain named individuals were involved with organized crime, that alleged associates of organized crime contributed to (former Housing) Secretary Kemp's political campaigns and that such persons benefited from federal grants and contracts as a result of Secretary Kemp's efforts on their behalf."

Conyers said he was not asking for public hearings on Fino's allegations.

But referring to Republicans' praise for Fino as a witness during the July hearing, Conyers said, "Nevetheless, the fact that such serious allegations are being made by a witness the majority obviously considers so credible ... indicates to me that further inquiry into this matter is required."

LEVEL 1 - 20 OF 34 STORIES

The Associated Press

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September 24, 1996, Tuesday, AM cycle

SECTION: Washington Dateline

LENGTH: 466 words

HEADLINE: House Democrat Seeks Inquiry on Informant's Claims About Kemp

BYLINE: By MARCY GORDON, Associated Press Writer

DATELINE: WASHINGTON

BODY:
A senior House Democrat has asked for an inquiry into allegations by a self-described FBI informan that GOP vice presidential candidate Jack Kemp had been knowingly involved with organized crime figures.

Rep. John Conyers of Michigan, the senior Democrat on the House Judiciary Committee, wrote its chairman, Rep. Henry Hyde, R-Ill., requesting "further inquiry" into the allegations by former informant Ronald Fino.

Kemp aides said the allegatins politically motivated.

"Jack Kemp had a distinguished two-decade career in Congress where there was never ever any suggestion of ties to nefarious individuals and these are completely unfounded allegations by a person of questionable credibility," said his press secretary, Alixe Glen.

Fino, who was a business manager for the Buffalo, N.Y., local of the Laborers' International Union, testified at a committee hearing in July that th Mafia controlled the union.

The laborers' union is headed by Arthur A. Coia, who has had a social and fund-raising relationship with President Clinton, and Republicans questioned whether the union got a special deal in its 1995 anti-corruption agreement with the Justice Department.

Kemp, a former congressman from New York, represented the Buffalo area.

According to Conyers, Fino has alleged that Kemp has "knowingly involved himself" with Mafia associates and officials within the laborers' union who participated in illegal activities.

Among Fino's allegations, according to Conyers, are that mob associates contributed to Kemp's congressional election campaigns and had benefited from federal grants and contracts through Kemp's efforts on their behalf.

In a telephone interview Tuesday with The Associated Press, Fino said he was not eager to accuse Kemp of improprieties but was pointing the corrosive

The Associated Press, September 24, 1996

influence that organized crime can play in a political system so dependent on fund-raising.

He said he mentioned Kemp's contacts with associates of organized crime during interviews with FBI agents probing the Mafia's links to labor unions but has refrained from discussing the Kemp information publicly.

At the July hearing, Democrats and the laborers union challenged Fino's credibility, saying he had been the paid source for a story on another subject in a supermarket tabloid.

Acknowledging that skepticism, Conyers told Hyde he was not asking for a follow-up hearing on Fino's charges regarding Kemp. However, Conyers said, "the fact that such serious allegations are being made by a witness ... who was lionized by Republicans ... for his credibility, indicates to me that further inquiry into this matter is required."

Sam Stratman, a spokesman for Hyde, had no immediate comment Tuesday on Conyers's Sept. 18 request for additional interviews of Fino by committee aides

LANGUAGE: ENGLISH

LOAD-DATE: September 25, 1996

LEVEL 1 - 19 OF 34 STORIES

Copyright 1996 Associated Press
AP Online

September 24, 1996; Tuesday 21:57 Eastern Time

SECTION: National political

LENGTH: 1374 words

HEADLINE: Kemp Compares Stumps In Mich.

BYLINE: DARLENE SUPERVILLE

DATELINE: GRAND RAPIDS, Mich.

BODY:

Reminiscing Tuesday about his rough start as a professional quarterback, Jack Kemp compared his third-string days with the Detroit Lions to the Republican ticket's election year challenge.

''They said I would never make it. I came from the wrong school. I was too short. I threw too hard. I didn't have it,'' Kemp recalled, stumping for votes at a factory in his one-time home state.

''I never gave up,'' he added. ''I got traded, sold, cut, hurt, booed, knocked out, but I never gave up. Bob Dole, in his career, never gave up.''

The GOP vice presidential nominee's rallying cry was met with thunderous applause and chants of ''Dole-Kemp'' for the Republican ticket that's trailing President Clinton and Al Gore in the polls here and nationally.

Kemp left the Detroit Lions to join the American Football League. Later, he was traded to the Buffalo Bills and led the team to two league championships before running for Congress. He represented Buffalo, N.Y. for 18 years and was federal housing secretary under President Bush.

Kemp also helped found Empower America, a conservative think tank.

Dole, gravely injured in World War II, rehabilitated himself and launched a successful career in Congress, retiring after 35 years.

''Bob Dole and Jack Kemp are fighters,'' Kemp said, urging the crowd at American Seating Co. to vote for them.

''Do it to restore the American dream and to make this country once again a shining example to the rest of the world.''

Kemp traveled to New York to pick up endorsements from the city's Police Benevolent Association and the Conservative Party.

On Monday in Covington, Ky., the campaign tried to counter law enforcement support for Clinton with endorsements from a handful of local members of the Fraternal Order of Police. The leaders of the 270,000-member FOP, the nation's largest police group, endorsed the president last week.

AP Online, September 24, 1996

At the factory in Michigan, which makes furniture and mass transit and stadium seats, Kemp stuck to his message of tax cuts and economic growth, but tossed in a barb at Clinton, too.

''We're building a special seat for Bill Clinton and it's on the bench afte November of 1996,'' he said as signs that said ''Dump Draft-Dodger Bill'' and ''UAW Members for Dole'' bobbed above the crowd.

American Seating is in a part of Grand Rapids that's been declared a ''renaissance zone'' by the state of Michigan similar to the enterprise zones Kemp championed in Congress. Businesses in these areas receive special tax breaks to reinvest the money they save in the community.

''We're not doing well enough until there's a renaissance zone in every single community of Ameica where people are hurting, where unemployment is too high, where people's hopes and aspirations have been reduced,'' Kemp said. '' ... We are not going to stop until there is an American renaissance from sea tc shining sea.''

A senior House Democrat has asked for an inquiry into allegations by a self-described FBI informant that GOP vice presidential candidate Jack Kemp hac been knowingly involved with organized crime figures.

Rep. John Conyers of Michigan, the senior Democrat on the House Judiciary Committee, wrote its chairman, Rep. Henry Hyde, R-Ill., requesting ''further inquiry'' into the allegations by former informant Ronald Fino.

Kemp aides said the allegations politically motivated.

''Jack Kemp had a distinguished two-decade career in Congress where there wa never ever any suggestion of ties to nefarious individuals and these are completely unfounded allegations by a person of questionable credibility,'' sai his press secretary, Alixe Glen.

Fino, who was a business manager for the Buffalo, N.Y., local of the Laborers' International Union, testified at a committee hearing in July that th Mafia controlled the union.

The laborers' union is headed by Arthur A. Coia, who has had a social and fund-raising relationship with President Clinton, and Republicans questioned whether the union got a special deal in its 1995 anti-corruption agreement with the Justice Department.

Kemp, a former congressman from New York, represented the Buffalo area.

According to Conyers, Fino has alleged that Kemp has ''knowingly involved himself'' with Mafia associates and officials within the laborers' union who participated in illegal activities.

Among Fino's allegations, according to Conyers, are that mob associates contributed to Kemp's congressional election campaigns and had benefited from federal grants and contracts through Kemp's efforts on their behalf.

In a telephone interview Tuesday with The Associated Press, Fino said he was not eager to accue Kemp of improprieties but was pointing the corrosive

AP Online, September 24, 1996

influence that organized crime can play in a political system so dependent on fund-raising.

He said he mentioned Kemp's contacts with associates of organized crime during interviews with FBI agents probing the Mafia's links to labor unions but has refrained from discussing the Kemp information publicly.

At the July hearing, Democrats and the laborers union challenged Fino's credibility, saying he had been the paid source for a story on another subject in a supermarket tabloid.

Acknowledging that skepticism, Conyers told Hyde he was not asking for a follow-up hearing on Fino's charges regarding Kemp. However, Conyers said, ''the fact that such serious allegations are being made by a witness ... who wa lionized by Republicans ... for his credibility, indicates to me that further inquiry into this matter is required.''

Sam Stratman, a spokesman for Hyde, had no immediate comment Tuesday on Conyers's Sept. 18 request for additional interviews of Fino by committee aides

LANGUAGE: ENGLISH

LOAD-DATE: September 24, 1996

LEVEL 1 - 13 OF 34 STORIES

Copyright 1996 Associated Press
AP Worldstream

September 25, 1996; Wednesday 14:32 Eastern Time

SECTION: International news

LENGTH: 694 words

HEADLINE: Kemp Criticizes Inquiry Into Informant's Claims

BYLINE: MARCY GORDON

DATELINE: WASHINGTON

BODY:
Vice presidential candidate Jack Kemp said Wednesday a claim that he had been involved with organized crime figures ''is the most ludicrous thing I've ever heard.'' Kemp said the congressman who called for an inquiry into the allegations, ''should be ashamed of himself.''

''I am not, nor have I ever been, involved, and everybody who knows me knows that,'' Republican candidate Kemp said on ABC-TV. ''I welcome anybody who would lay out any fact that would accuse me of any act of crime or being tied to the mob.''

Rep. John Conyers, senior Democrat on the House Judiciary Committee, has written to committee chairman Rep. Henry Hyde, requesting ''further inquiry'' into the allegations by a self-described former FBI informant, Ronald Fino.

''I couldn't agree more,'' Conyers said Wednesday in response to Kemp's statement that he would welcome anyone who had facts to go along with the accusation.

''I only wish Chairman Hyde would agree and stop dragging his feet,'' Conyers said. ''A week ago, I asked him to do exactly what Mr. Kemp has publicly requested. We eed to hear from the person who has made these allegations ... as quickly as possible.''

Fino, who was a business manager for the Buffalo, N.Y., local of the Laborers' International Union, testified at a committee hearing in July that the Mafia controlled the union.

The union is headed by Arthur A. Coia, who has had a social and fund-raising relationship with President Clinton. Republicans questioned whether the union got a special deal in its 1995 anti-corruption agreement with the Justice Department.

Kemp, a former congressman from New York, represented the Buffalo area.

According to Conyers, Fino has alleged that Kemp has ''knowingly involved himself'' with Mafia associates and officials within the union who participated in illegal activities.

AP Worldstream, September 25, 1996

Among Fino's allegations, according to Conyers, are that mob associates contributed to Kemp's congressional election campaigns and had benefited from federal grants and contracts through Kemp's efforts on their behalf.

''It's just so ludicrous,'' Kemp said in this morning's interview. ''John Conyers should really be ashamed of himself and I just feel sorry not angry jus sorry that he has to get into this type of political mudslinging so late in the campaign.''

Kemp expressed frustration at how to answer the allegations: ''How do you say, 'I am not a member of the mob?' How do you say it and not say 'Kemp denies being member of the mob.'''

In a telephone interview Tuesday with The Associated Press, Fino said he was not eager to accuse Kemp of improprieties but was pointing to the corrosive influence that organized crime can play in a political system so dependent on fund raising.

He said he mentioned Kemp's contacts with associates of organized crime during interviews with FBI agents probing the Mafia's links to labor unions but has refrained from discussing the Kemp information publicly.

LANGUAGE: ENGLISH

LOAD-DATE: September 25, 1996

Kaniewski 10/15/96

- House Judiciary Subcom tom'w report on hrgs on Labarers
  "leak"
  "circulate on R side"
  to get em to sign it

- given debate

- we lowest faced it in revival context in long time
- cone/defenses by attacks
- response =
  ① contribs = legal & proper
  - Rs took $
  - no indiv returned it

  Roll call fr last wk
  FCCC returned it

  ② to repeat ethics & disc code of any org or corp. in the country -> if applied to the Cong.

DS ready to leak their report too
Ny tonite & tom'w
212-245-5000

w/ kempstuff
John Flannery
House 225-6906

PHOTOCOPY
PRESERVATION

June 18, 1996

VIDEO FOR LABORERS INTERNATIONAL

DATE: June 19, 1996

This message will be taped for the Laborers International Union Clinton/Gore endorsement video. The Laborers International will distribute this video to communicate the union's endorsement of you and the Vice President for re-election. Five thousand tapes will be distributed to local union offices and training centers in mid-July. Approximately 40,000 are expected to be distributed to active and retired members after Labor Day.

The Laborers' video is ten minutes long and highlights Clinton Administration priorities and accomplishments. Because the video highlight these issues, your remarks do not specifically cover all of them. The video highlights the following:

- Signing the Family and Medical Leave Act
- Fighting to protect working American's health care even when they leave or lose their jobs
- Fighting to increase minimum wage
- Fighting for easier access to college through: work study, $1,000 merit scholarship for top 5% of all high school graduates, expansion of Pell grant program and tax deduction for up to $10,000 a year in tuition.
- Supporting the Striker Replacement ban
- Signing the Motor Voter bill
- Standing firm against the repeal of Davis-Bacon
- Stabilizing Medicare trust fund
- Fighting against cuts in Medicare, Medicaid, education and environmental protection
- Fighting anti-worker legislation
- Decrease in crime, welfare and food stamps roles, poverty rate and teen pregnancy
- Fighting for workers safety

LABORERS' INTERNATIONAL UNION of NORTH AMERICA

HEADQUARTERS 905 - 16th Street, NW, Washington, D.C. 20006-1765 Phone: (202) 737-8320 Fax: (202) 737-2754

ARTHUR A. COIA
General President

August 1, 1996

First Lady Hillary Rodham Clinton
Old Executive Office Building
Room 100
Washington, D.C. 20500

Dear Mrs. Clinton:

As you finalize your agenda and personal appearance schedule for the Democratic National Convention, we hope you will be able to set aside time on Monday night, August 26, to attend a fabulous birthday celebration that we have planned to honor Geraldine Ferraro. Ms. Ferraro and the Democratic Party are forever linked in American political history, having established a landmark precedent which indelibly defines our commitment to equality.

Please join us as we pay tribute to this remarkable woman who continues to be a role model and inspiration, particularly to those who seek a place in public service. Your appearance will send an important message about the Democratic Party's genuine appreciation for Geraldine Ferraro and our unwavering commitment to womens' rights and equal opportunity.

This festive celebration will be held on the opening night of the Convention, from 10 p.m. until midnight at Chicago's world-renown Field Museum. An official invitation will be delivered shortly to your office. Your presence would add a special touch to what promises to be an exciting and memorable evening. We look forward to hearing from your staff in the near future so that we can begin to finalize our arrangements.

Sincerely,

ARTHUR A. COIA
General President

AAC/jk

THE WHITE HOUSE
WASHINGTON

file
Labor - LIUNA

July 12, 1995

MEMORANDUM FOR JEN O'CONNOR

FROM: KRIS BALDERSTON

SUBJECT: LIUNA

More LIUNA stuff for you.

[redacted]

Department of Energy
Washington, DC 20585

July 11, 1995

MEMORANDUM FOR KRIS BALDERSTON

FROM: Bob DeGrasse
Director, Office of Worker and Community Transition

SUBJECT: Concerns of the Laborers' International Union

In response to your memorandum to Richard Rosenzweig of July 5, 1995, I was asked to provide you with some background concerning the Laborers' International Union (LIUNA). Please contact me directly if I can provide any additional information to you.

Background

As part of the National Defense Authorization Act for Fiscal Year 1993, Congress included language to address the change in DOE's mission from production of nuclear weapons to environmental clean-up at defense nuclear facilities. Congress recognized the significant impact restructuring would have not only on the work functions carried out at the sites, but in the likely reduction of the work force size in conducting cleanup activities.

This language, known as "Section 3161", requires DOE to develop a plan for restructuring the work force whenever a change in the work force is necessary at defense nuclear facilities. Under the Clinton Administration, efforts have focused on minimizing the number of involuntary layoffs through early-out incentive packages. These packages are developed on a site-by-site basis, and cover both construction as well as production workers meeting the eligibility criteria.

Concerns

LIUNA's concern is with who gets the jobs that remain at DOE sites -- an issue of equal importance to production worker unions such as the Oil, Chemical & Atomic Workers Union, the United Steelworkers Union, the International Chemical Workers Union, and the International Association of Machinists. Although it is not a requirement, among the defined 3161 objectives are that: (1) "changes in the work force...should be accomplished, when possible, through the use of retraining.... (2) "employees whose employment in positions at such facilities is terminated shall, to the extent practicable, receive preference in hiring", and (3) "employees shall, to the extent practicable, be retrained for work in environmental restoration and waste management activities".

DOE has taken a position of evaluating the needs, skills, and options available in meeting our mission at each site as well as the feasibility of retaining the existing production and construction workforce. DOE field organizations have played a critical role in helping the Department assess where and when "to the extent practicable" affects the timely accomplishment of our clean-up mission. Because the needs vary from site to site, and

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because downsizing is the one assured constant across the complex, there is no single union which has been a consistent "winner" or "loser". Production unions have challenged the building trades unions in their assumption that only their work force is sufficiently trained to perform the follow-on jobs. They argue that the sites did not become hazardous overnight, and that the remaining jobs are directly analogous to functions and training already provided by DOE to its production workforce under its earlier mission. There is even disagreement within the building trades about how hard to fight for the jobs, based upon the work being done by the affiliated union's membership. For example, the Carpenter's Union is seemingly more flexible about work allocation because they represent a higher skilled workforce which is not interested in some of the lower skilled jobs that are in contention.

In an environment where the "mission accomplished" is the elimination of all functions at defense nuclear facilities, we expect continuing controversy over the remaining jobs. In some instances there are no other jobs to turn to in the surrounding communities, and workers will place additional pressure on their union leadership to resolve the issue for them with the agency and through all available political channels.

Our approach to resolving this problem has been to encourage the local unions at our sites to get together and work out the jurisdictional issues. We believe this is an internal union issues, and can best be resolved union to union. Some of our sites, particularly Oak Ridge in Tennessee, have been very successful in resolving these issues through local consultation.

We will continue to encourage the unions to let us know when they have concerns with the decisions we have made, either directly or through meetings we hold regularly with all outside stakeholders.

cc: Rich Rosenzweig

June 6, 1995

MEMORANDUM FOR STEVE SILVERMAN AND ~~PHIL CAPLAN~~ Kris Balderston

FROM: KITTY HIGGINS

SUBJECT: Actions taken on LIUNA concerns

Please check with your agencies on these issues and prepare a joint report for Harold.

cc: Jennifer O'Connor

12:45 6/30
Karine will
Call about
these issues
and the letters

Do memo?

Do soon...

THE WHITE HOUSE

WASHINGTON

Steve
Phil -
Pls chk
w/ your agencies
re these issues
& propose a
joint response to
Harold.
K.
cc: Jen OC

2 June 1995

MEMORANDUM FOR KITTY HIGGINS

FROM: Jennifer O'Connor JO

SUBJECT: Actions taken on LIUNA concerns

Enclosed is a 20 October 1994 memorandum to the President from Harold outlining policy concerns with various cabinet departments, as expressed by the Laborers International Union of North America (LIUNA).

Could you please see if all or any of these issues were ever resolved by the named departments?

Thanks for your help.

Department of Energy
Washington, DC 20585

OFFICE OF THE SECRETARY

****

FACSIMILE TRANSMITTAL SHEET

****

TO: Ms. O'Connor ///	*FROM:* Jonathan Miller
OFFICE:	*DATE:* 3/11/96
FAX NUMBER: 456-2883	*FAX NUMBER: 202/586-9626*
OFFICE NUMBER:	*OFFICE NUMBER: 202/586-6210*

COMMENTS:

*NUMBER OF PAGES (INCLUDING COVER)*_____

IF TRANSMITTAL IS INCOMPLETE, PLEASE PHONE THE ABOVE NUMBER.

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Restructuring

Office of Worker and Community Transition

Department of Energy
Washington, DC 20585

February 1996



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VI. ADMINISTRATIVE PROCEDURES 14

A. 120-Day Notification 14
B. Develop Baseline Data 14
C. Analyze Mission Requirements 15

Except where otherwise noted, this guidance is not prescriptive. Cognizant field organizations have responsibility for planning work force restructuring. The Department's field organizations are in the best position to conduct full consultation with affected stakeholders on these plans and to understand the unique needs of work force restructuring at field facilities. Points-of-contact at each field organization are listed in Appendix A.

III. GENERAL GUIDANCE

All work force changes, regardless of cause, should be managed by the cognizant field organization consistent with the objectives of section 3161 of the Act, and DOE Order 3309.1A covering Reductions in Contractor Employment.[1] Each plan should be developed by the field organization consistent with budget constraints, contractual provisions or other obligations. All aspects of a plan, including the mix and level of benefits offered, should be developed in consultation with the stakeholders at the affected facility, and other appropriate stakeholders to ensure, among other things, the judicious expenditure of public funds. The Office encourages field organizations to utilize the combination of work force restructuring mechanisms that will most effectively accomplish the restructuring objectives.

A. Threshold for Plans

Work force restructuring plans should be developed where changes in the nature or structure of the work force may affect 100 or more employees at a site within a 12-month period. Even when a full plan is not required, the objectives of section 3161 should be followed, to the extent practicable within available resources. While the objectives of section 3161 should be considered in cases of smaller reductions, the formal process required by the law is not necessary. Approval from the Office and the responsible program and funding office should be received before any work force change is implemented.

B. Timing of Plans

Upon determining that a change in the work force is necessary, the appropriate field organization should immediately begin planning for the restructuring, and develop a schedule for preparing a work force restructuring plan, if required. One of the objectives of the Act is to give at least 120 days notice to the employees before involuntary layoffs begin. Although a 120-day advance notification may not always be possible, every effort should be made to meet or exceed this important objective. Field organizations should work with the Office to develop a

[1] Order 3309.1A is being revised to incorporate the requirements of section 3161 of the Act and the organizational changes resulting from the creation of the Office of Worker and Community Transition.

E. Stakeholder Input to Plans

Consultation with local, state, and national stakeholders, as well as state and local government officials, is an essential element of the work force restructuring process. Input should be solicited and given consideration at appropriate points throughout the development of plans for work force restructuring. When possible, the Office recommends that field organizations make this **Interim Planning Guidance** available to their stakeholders in advance of the 120-day notification. This will give stakeholders a perspective on the parameters within which plans are prepared.

F. Role of Counsel

Work force restructuring raises many legal issues under a wide variety of statutes. Failure to comply with applicable laws can have significant consequences for both the Department and its contractors. It is therefore essential that counsel be involved in the formation and execution of the plans. Failure to present properly structured plans to the Office can result in delay and increased cost. Therefore, field organizations should include counsel as a member of the planning team.

G. The Role of DOE Contractors

While the Department may seek the assistance of its contractors in developing work force restructuring plans, the plans are Department of Energy products. In general, it is the Department's policy to make information available to the public that is available to the operating contractors and has bearing on the plans, unless such information is protected by law or regulation.

Department contractors are not identified by section 3161 of the Act as stakeholders who must be consulted in the preparation of work force restructuring plans. The exclusion of these contractors would be inappropriate, however, as they may be the principal resource of institutional knowledge on many restructuring issues, and may be the only source for certain information necessary for preparing a plan. They are the employers of the affected employees and are generally the administrators of the pension and other benefit plans involved. They are responsible for fulfilling their obligations to bargain with the collective-bargaining representatives



facilities should be sought from the program responsible for the activities subject to the work force restructuring. Likewise, benefits for workers at defense nuclear facilities affected by the changes due to business or efficiency decisions should be sought from the appropriation of the program making the change. These decisions include initiatives such as privatization, commercialization and reductions aimed at achieving improved efficiency.

The allocation of funds to mitigate the impact of restructuring on the workers decreases the funds available for continuing program responsibilities and economic development. No "standardized" allocation of funds is contemplated as it is highly unlikely that the needs of any two work forces and communities undergoing a restructuring would be the same.

IV. SPECIFIC BENEFITS FOR CONSIDERATION

After work force planning has identified the classifications of workers at risk, consideration of specific benefits to mitigate involuntary separations should take into account available funding and the status of affected employees. In implementing the objectives of section 3161 of the Act, the Department recognizes a special responsibility to minimize the impact of work force restructuring on employees who were employed before September 27, 1991, the day President Bush announced the first unilateral reduction of the Nation's nuclear weapons stockpile, and the date the Department has chosen as the end of the Cold War. Appendix D contains the job attachment test that has been developed for determining those employees who participated in efforts to maintain the Nation's nuclear deterrent during the Cold War.

In developing a work force restructuring plan, the following benefits may be considered for affected workers. If adopted, specific offers and conditions should be described in the plan.

B. Voluntary Separation Incentives

Voluntary separations may be encouraged by offering severance, or enhanced severance payments. Applications for voluntary separation may be refused in order to preserve critical knowledge or skills. Those volunteering for separation may be offered educational assistance, and relocation assistance, and they may receive Displaced Workers Medical Benefits.

The cognizant field organization should adopt as part of its plan mechanisms to ensure that individuals accepting a voluntary separation incentive are not inappropriately rehired. Such mechanisms could include post-employment restrictions and require repayment of the incentive upon rehire. Individuals with critical skills should not be offered voluntary separation incentives unless sufficient personnel are available to fulfill mission requirements.

C. Educational Assistance for Separated Employees

Educational assistance should be considered for employees being voluntarily or involuntarily separated, except for employees accepting early retirement incentives. It is recommended that tuition assistance, and other reasonable and necessary educational expenses, be limited to not more than a total of $10,000 over a period of not more than 4 years.

D. Relocation Assistance

Relocation assistance should be considered for workers being terminated and for those voluntarily separating, except for employees accepting early retirement incentives. Such assistance should particularly be considered for employees involuntarily separated who are hired at other Department facilities, but who do not qualify for relocation assistance under the hiring contractor's policies. It is recommended that relocation assistance include actual and reasonable expenses for transportation, movement of household goods, and temporary living accommodations within a range of $2,000 to $5,000.

V. MANDATORY BENEFITS

The benefits described below **must be offered** to eligible employees:

A. Preference in Hiring

Section 3161 of the Act provides that, to the extent practicable, terminated employees at a defense nuclear facility should receive preference in filling vacancies in the work force of the Department of Energy and its contractors and subcontractors. The Department has determined that employees must be identified as having helped maintain the Nation's nuclear deterrent during the Cold War in order to qualify for this preference. The preference should be honored by all prime contractors, and by subcontractors whose contracts with the Department equal or exceed $500,000 in value.

The Department has established the following criteria for determining eligibility for the hiring preference: the individual must be a former employee (1) who was involuntarily terminated (except if terminated for cause); (2) who meets the eligibility standards in Appendix D; and (3) who is qualified for the job at the time the work is to begin. Where qualifications are approximately equal, eligible individuals will be given preference in hiring. However, the preference will be administered consistent with applicable law, regulation, or executive order, and collective bargaining agreements. This preference is not immediately applicable in situations where positions become available through an outsourcing action or follow-on contract in which the current employees should first be offered their same or similar job with the replacement contractor in order to avoid a layoff.

An individual's hiring preference continues until termination by the action (or inaction) of that individual. Initially, and on an annual basis thereafter, eligible individuals must certify their desire to retain their hiring preference. The Office has developed a Preference in Hiring Eligibility Form for this purpose (Appendix E) which eligible individuals should submit to their DOE field organization. Actions that would terminate an individual's hiring preference include: voluntary termination or termination for cause from a position that was obtained through the exercise of the preference, or failure to comply with the annual certification requirement.

The Department developed the Job Opportunity Bulletin Board System (JOBBS) to simplify implementation of the hiring preference by eligible individuals, and by

B. Construction Worker Benefit

Construction wage rates and benefits are structured to take into account the intermittent nature of construction work. In recognition of this, early plans generally limited benefits for construction workers to tuition assistance, outplacement support, preference in hiring and relocation assistance. However, it has been noted that many construction workers have maintained long-term relationships with the Department and structured their lives around work at our facilities. Many of these relationships, which had been expected to continue, have been terminated as the general level of construction work declined following the end of the Cold War.

The Department has determined that construction workers who meet the job attachment test (Appendix D) may elect to receive a one-time benefit. In return for that benefit, these construction workers, like other employees, may be required to waive the hiring preference. The one-time benefit should be consistent with the employer's established separation pay benefit, if applied, but should not exceed 6 weeks at base pay rates. The specific amount of this benefit, as well as other benefits for construction workers should be defined during the plan development and stakeholder consultation process. The Office does not suggest that special payments should be made into either pension or health and welfare benefits funds for these workers. The Office does not view this special benefit as a precedent-setting action for the construction industry since this benefit carries out the intent of legislation that uniquely applies to the Department of Energy's Federal, contractor and subcontractor work force.

Construction workers who receive the special benefit should be restricted from employment at a Department facility for a period not less than the period equal to the salary value of the benefit without specific approval of the Department or pro rata repayment of this benefit.



responsible for carrying out the data collection and analysis. Once the baseline information is established, the Office intends to conduct an independent audit to ensure data reliability, as appropriate in particular circumstances.

C. Analyze Mission Requirements

Field organizations should analyze, and revise as necessary, future mission requirements and the work force skills required to carry out those missions. Appropriate program offices are responsible for defining the parameters of the future missions. New or modified work force restructuring plans should include a detailed description of the methodology and analysis used to define the work force necessary to execute the missions.

D. Identify Positions Excess to Future Requirements

Based on the current work force, and the work force necessary to carry out future missions, the plan should identify the classification of employees that should be:

1. retained because they possess critical skills;
2. retained with little or no retraining;
3. retained with appropriate retraining; and
4. considered for voluntary separation incentives.

The analysis should also identify those job skills that are unlikely to be satisfied by existing workers.



nizations should plan to provide at least 2 weeks for review by the Office and appropriate headquarters organizations.

Voluntary separation programs should not be offered to employees at the same time as early retirement programs, except in special circumstances and with prior approval. Voluntary incentive programs should be completed prior to any involuntary separations.

In exchange for the enhanced benefits employees receive in a voluntary separation program, it is the Department's policy to obtain from employees who separate under such a program a release of claims related to their employment and separation. The Department has adopted a model form of release, which is provided in Appendix F. Variations from the model may be required by state law or other special circumstances. However, departures from the model will require Department approval, including from the Office of General Counsel.

G. Plan Approval

The Office will coordinate the appropriate review by other Headquarters offices before concurring with plans or approving requests to implement voluntary incentive programs. In general, the Office will seek review from the affected program office, General Counsel, Field Management, and Human Resources and Administration. Field organizations should allow 1 month for Secretarial approval of final Work Force Restructuring Plans.

Thirty copies, plus 1 reproducible master, of the final plan should be submitted to the Office for subsequent submission by the Secretary to the appropriate Congressional committees and delegations from affected States. The responsible field organization should also make distribution to interested local stakeholders, and to the points-of-contact at each cognizant field organization. The Office will make additional copies, if necessary, from the master for distribution within Headquarters and to interested national stakeholders.

employees expected to need such assistance. Field organizations are encouraged to track the employment, education, and insurance status of displaced workers for at least 1 year after separation.

J. Budgeting for Plans

Plans must include a budget estimate for each initiative or benefit planned for mitigating impacts on workers. Budget estimates should be based on a realistic projection of the number of workers who will participate in each initiative and reflect the best cost estimates available. Estimated incremental costs to pension funds for early retirements should be based on actuarial estimates. It is not acceptable to request funds based simply on maximum possible participation in each initiative or benefit. For planning purposes, an average cost of $15,000 to $25,000 per position eliminated is a reasonable range for guiding decisions about the range of benefits offered. Where work force restructuring is justified by business efficiency decisions, the budget estimates should be accompanied by savings estimates and the proposed use of those savings. In general, funding authorizations will be made following final approval of a plan. Funding authorizations for certain initiatives, such as those encouraging voluntary separations, may be made earlier.

Appendix A

Office of Worker and Community Transition Contacts

Director:

Bob DeGrasse ..... 202-586-7550, FAX 586-8403

Deputy Director:

Terry Freese ..... 202-586-5907, FAX 586-8403

Work Force Restructuring:

Terry Freese ..... 202-586-5907, FAX 586-8403

Lew Waters ..... 202-586-4010, FAX 586-8403

Work Force Planning:

Debby Swichkow ..... 202-586-0876, FAX 586-8403

Lew Waters ..... 202-586-4010, FAX 586-8403

Labor Relations:

Lyle Brown ..... 202-586-0431, FAX 586-8403

Deborah Sullivan ..... 202-586-0452, FAX 586-1540

Community Transition:

Bob Baney ..... 202-586-3751, FAX 586-1540

Mike Mescher ..... 202-586-3924, FAX 586-1540

Debby Swichkow ..... 202-586-0876, FAX 586-8403

Public Participation:

Laurel Smith ..... 202-586-4091, FAX 586-8403

Appendix B

Section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484, Oct. 23, 1992)

Subtitle E—Defense Nuclear Workers

SEC. 3161. DEPARTMENT OF ENERGY DEFENSE NUCLEAR FACILITIES WORK FORCE RESTRUCTURING PLAN

(a) IN GENERAL.—Upon determination that a change in the work force at a defense nuclear facility is necessary, the Secretary of Energy (hereinafter in this subtitle referred to as the "Secretary") shall develop a plan for restructuring the work force for the defense nuclear facility that takes into account—

(1) the reconfiguration of the defense nuclear facility; and

(2) the plan for the nuclear weapons stockpile that is the most recently prepared plan at the time of the development of the plan referred to in this subsection.

(b) CONSULTATION.—

(1) In developing a plan referred to in subsection (a) and any updates of the plan under subsection (e), the Secretary shall consult with the Secretary of Labor, appropriate representatives of local and national collective-bargaining units of individuals employed at Department of Energy defense nuclear facilities, appropriate representatives of departments and agencies of State and local governments, appropriate representatives of State and local institutions of higher education, and appropriate representatives of community groups in communities affected by the restructuring plan.

(2) The Secretary shall determine appropriate representatives of the units, governments, institutions, and groups referred to in paragraph (1).



(A) programs carried out by the Department of Labor pursuant to the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

(B) programs carried out pursuant to the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990 (Part D of Public Law 101-510; 10 U.S.C. 2391 note); and

(C) programs carried out by the Department of Commerce pursuant to title IX of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3241 et seq.).

(d) IMPLEMENTATION.—The Secretary shall, subject to the availability of appropriations for such purpose, work on an ongoing basis with representatives of the Department of Labor, work force bargaining units, and States and local communities in carrying out a plan required under subsection (a).

(e) PLAN UPDATES.—Not later than one year after issuing a plan referred to in subsection (a) and on an annual basis thereafter, the Secretary shall issue an update of the plan. Each updated plan under this subsection shall—

(1) be guided by the objectives referred to in subsection (c), taking into account any changes in the function or mission of the Department of Energy defense nuclear facilities and any other changes in circumstances that the Secretary determines to be relevant;

(2) contain an evaluation by the Secretary of the implementation of the plan during the year preceding the report; and

(3) contain such other information and provide for such other matters as the Secretary determines to be relevant.

(f) SUBMITTAL TO CONGRESS.—(1) The Secretary shall submit to Congress a plan referred to in subsection (a) with respect to a defense nuclear facility within 90 days after the date on which a notice of changes described in subsection (c)(1)(B) is provided to employees of the facility, or 90 days after the date of the enactment of this Act, whichever is later.

(2) The Secretary shall submit to Congress any updates of the plan under subsection (e) immediately upon completion of any such update.

(2) The term "Department of Energy employee" means any employee of the Department of Energy defense nuclear facility, including any employee of a contractor or subcontractor of the Department of Energy employed at such a facility.

Appendix C

Listing of Defense Nuclear Facilities

The list below reflects facilities receiving funding for Atomic Energy Defense activities of the Department of Energy, with the exception of activities under Naval Reactor Propulsion. It is recognized that these facilities have varying degrees of defense activities, ranging from a total defense dedication to a very small portion of their overall activity. This may cause certain difficulties in implementing the intent of the section 3161 legislation. Regardless, this listing will be used by the Office for possible application of funding received for defense worker assistance and community transition purposes.

Kansas City Plant

Pinellas Plant

Mound Facility

Fernald Environmental Management Project Site

Pantex Plant

Rocky Flats Environmental Technology Site, including the Oxnard Facility

Savannah River Site

Los Alamos National Laboratory

Sandia National Laboratory

Argonne National Laboratory

Brookhaven National Laboratory

Lawrence Livermore National Laboratory

Oak Ridge National Laboratory

Appendix D

Job Attachment Test

In implementing the objectives of section 3161 of the Act, the Department recognizes a special responsibility to minimize the impact of work force restructuring on employees who participated in efforts to maintain the Nation's nuclear deterrent during the Cold War. September 27, 1991, the day President Bush announced the first unilateral reduction of the Nation's stockpile, has generally been recognized by this Department as the end of the Cold War.

In general, employees who meet the job attachment test discussed below should be eligible for most benefits offered in a work force restructuring plan. However, the benefits offered at a specific site should be tailored to specific conditions, to the demographics of the workers at that site, and must be practicable and reasonable with respect to budget constraints, contractual provisions, and other obligations. Thus, those who meet the job attachment test are not likely to be offered exactly the same benefits at all sites.

To identify employees who helped maintain our nuclear deterrent during the Cold War, the criteria listed below should be followed at all sites:

A. Regular Employees:

1. must have been working at a defense nuclear facility on September 27, 1991;

2. must have worked full-time (or regular part-time) at a facility from that date through the date of the 120-day notification; and

3. must accept a voluntary separation incentive or have been involuntarily separated.

B. Intermittent Workers, Including Construction Workers:

1. must have worked at a defense nuclear facility on or before September 27, 1991;

2. must have worked at a facility within 180 days preceding the work force restructuring notification;

Appendix E

Example of Form for Establishing Preference in Hiring

STATEMENT OF INTEREST IN MAINTAINING SECTION 3161 EMPLOYMENT ELIGIBILITY

Name: _____
First Middle Last

Social Security Number: _____ _____ _____

Address: _____
Street Apartment No.

_____
City State Zip

Telephone No. ( ) _____

Date of Lay-off resulting from Work Force Restructuring: _____
(Month/Day/Year)

Occupational Classifications held:

_____

_____

_____

_____

I hereby request that my name be placed, or retained, on the Section 3161 Preference in Hiring List for the (site name) and be considered for any job opportunities that may arise for which I am qualified at this or any other Department of Energy site. I also certify that I have not been terminated for cause from employment by a Department of Energy Contractor or Subcontractor while performing work at a Department of Energy site.

_____ _____
Signature Date

Appendix F

Sample Release for Use in Work Force Restructuring Programs

VOLUNTARY SEPARATION PAYMENT PROGRAM GENERAL RELEASE AND WAIVER

This Voluntary Separation Payment Program, General Release and Waiver ("Agreement") is entered into by and between _____ ("Employee") and _____ ("Employer"), as part of Employee's voluntary election to terminate employment with the Employer.

IN EXCHANGE FOR THE PROMISES SET FORTH BELOW, THE PARTIES AGREE AS FOLLOWS:

1. Employee voluntarily terminates his/her employment with Employer effective _____, 1995. Employee agrees not to seek employment with or become employed at the _____Site by the Employer or any other future or current contractor or subcontractor at the Site for a period of _____ year(s) from the date of Employee's resignation. This includes but is not limited to temporary employment service contracts, general task order assignments, indefinite quantity contracts, basic ordering agreements, and consultant contracts. However, this does not preclude Employee from employment with a company providing supplies, equipment, materials, or commodities to the Site under a fixed-price contract or purchase order.

2. Employee agrees that the Employer has no obligation to reemploy Employee in the future, and Employee waives any recall, rehire, or rehire preference rights, such as those that may arise under Section 3161 of the National Defense Authorization Act for Fiscal 1993. Employee agrees to perform all steps required by Employer's policies and procedures at the separation of his/her employment.

3. Except as set forth in paragraph 4 below, Employee, on behalf of himself/herself and any person or entity entitled to sue on Employee's behalf, waives and releases Employer, its parents, subsidiaries, and affiliates, the Department of Energy, and their employees, officers, directors, shareholders, agents, and successors from any causes of action or claims, whether known or unknown, that arise out of the Employee's resignation and separation of employment with Employer and any causes of action or claims that arise out of Employee's employment with Employer, up to and including the date of Employee's resignation, under any federal, state or local law, including but not limited to the Age Discrimination in



7. **Employee has been advised to consider this Agreement and to consult with an attorney of his/her choice, and Employee has had the opportunity to do so. Employee has had the right to consider this Agreement for a period of at least forty-five (45) days prior to entering into this Agreement. Employee has the right to revoke this Agreement for a period of seven (7) days following execution of this Agreement by giving written notice to the local Human Resources representative. If Employee revokes the Agreement, it shall not be effective and enforceable and Employee will not receive any of the benefits described in paragraph 5. Employee has read and understands the terms and contents of this Agreement, and Employee freely, voluntarily, and without coercion enters into this Agreement and agrees to be bound by its terms.**

8. This Agreement constitutes the entire understanding and agreement of Employee and Employer and can only be modified in writing agreed to by both parties.

9. Employee has received all of the information required to be disclosed in these circumstances under the Age Discrimination in Employment Act regarding who is covered by the Program, the eligibility factors, the time limits of the Program, the ages and job titles of everyone eligible for the Program, and the ages of ineligible employees in the same job classification or organizational unit.

PLEASE READ THIS AGREEMENT CAREFULLY. IT CONTAINS A RELEASE OF KNOWN AND UNKNOWN (See Note 3) CLAIMS AS DESCRIBED IN PARAGRAPH 3, ABOVE, SUBJECT TO THE LIMITATIONS EXPRESSLY SET FORTH IN PARAGRAPH 4.

Agreed to:

_____

Employee/date

_____

{Employer}/date

LABORERS' INTERNATIONAL UNION of NORTH AMERICA

HEADQUARTERS: 905 - 16th Street, NW, Washington, D.C. 20006-1765

DONALD J. KANIEWSKI
Legislative & Political Director

8/24 - John - call Jen O'C & see if she has any correspondence to from Labour Int'l & if so what — I have a bag to be offered if needed —

August 21, 1995

Mr. Doug Sosnik
Assistant to the President
Director of Political Affairs
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Doug:

The attached are the matters I discussed with you. Thank you for your help.

Sincerely,

Donald J. Kaniewski

DONALD J. KANIEWSKI
Legislative and
Political Director

DJK/er

Enclosure

For Jen O'C

TO: Jennifer O'Connor
FROM: Marilyn DiGiacobbe

I thought you would appreciate this. Somehow, they've got me on their mailing list.

M.

Rm 111

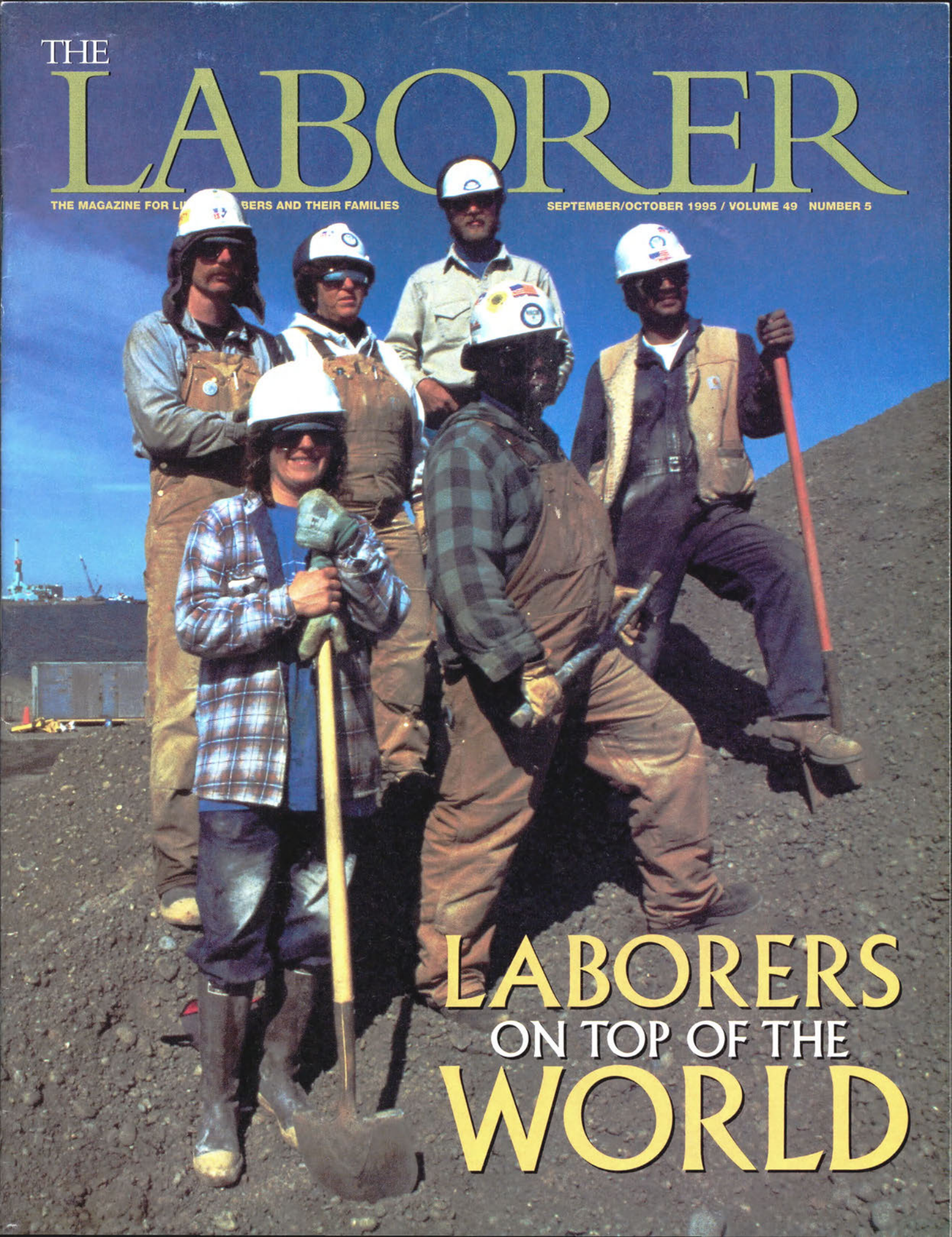
Clinton Presidential Records
Digital Records Marker

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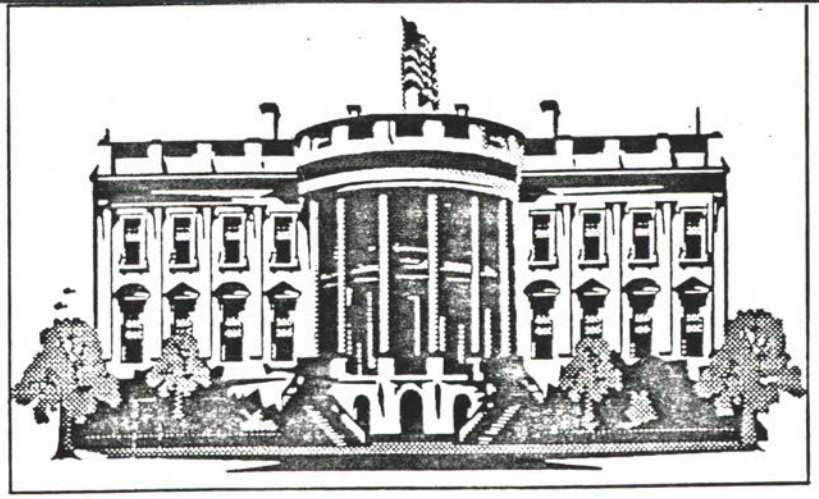
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THE
LABORER
THE MAGAZINE FOR LI BERS AND THEIR FAMILIES
SEPTEMBER/OCTOBER 1995 / VOLUME 49 NUMBER 5



LABORERS ON TOP OF THE WORLD



THE WHITE HOUSE
OFFICE OF CABINET AFFAIRS
Room 160, Old Executive Office Building
Washington, D.C. 20500
Tel. 202-456-2572
Fax. 202-456-6704

FAX COVER SHEET

DATE: 6/21

TO: Jennifer O'Connor

PHONE: 66350

FAX: 67929

FROM: Kris Balderston

NO. OF PAGES: 6

PRIORITY: Y N

MESSAGE:

JO'C – I thought this went to you ages ago. As you can see DOL awarded the ~~broker~~ grants on Tues.. I am not sure the laborers know yet so you or Harold may want to call & give them the good news. DETAILS are attached

I would love to get any advice you may have to impart as I take on these new duties.

News Release

U.S. Department of Labor

Office of Public Affairs
Washington, D.C.
EMPLOYMENT AND TRAINING ADMINISTRATION

USDL: 95-228
FOR RELEASE: IMMEDIATE
Tuesday, June 20, 1995

CONTACT: Tom Edwards
OFFICE: (202) 219-6871

Demonstration Projects Help Laid-Off Workers Find Jobs
LABOR DEPARTMENT AWARDS $5.3 MILLION FOR JOB DEVELOPMENT BROKER GRANTS

The U.S. Department of Labor is awarding 11 grants totaling $5.3 million to develop more effective ways to help laid-off workers find jobs, Secretary of Labor Robert B. Reich announced today. Organizations receiving job development broker demonstration grants include an employer association, a union and several universities and community colleges.

"This initiative both expands the options available to dislocated workers and provides a surer path to reemployment," said Reich. "Job development brokers bring together the elements that laid-off workers need to get the next job. They arrange for the appropriate training and provide support services so the workers can compete successfully for those jobs."

Job brokers will coordinate employers, displaced workers and training programs by first going to employers and asking them to promise a job, determining what training that job requires, then going to a training facility and helping design tailored training to fit the job. The brokers then find displaced workers, enlist them in training and offer counseling throughout the training and during the first three months on the job.

The services available to job seekers will include assessment of their skills and abilities, career counseling, customized classroom and on-the-job training, academic tutoring, work internships and job placement. Supportive services such as child care and transportation assistance will be available as necessary to enable project participants to engage in training.

The department expects the broker system will be cost effective. If the demonstration strategy is successful, a job development marketplace could be developed where brokers compete to provide assistance to workers on the basis of performance and customer satisfaction.

-more-

These demonstration projects are part of a comprehensive approach to assist workers who have been, or are about to be, laid off for reasons such as technological change, foreign competition or government actions. In general, such workers are eligible if they are unlikely to return to their previous industry or occupation.

The 11 projects were selected from 27 proposals submitted in response to a Federal Register notice issued on November 4, 1994. Ten projects will operate in seven states while one nationwide project will serve workers in 17 states. A list of grantees is attached.

# # #

This information will be made available to sensory impaired individuals upon request. Voice phone: (202) 219-5577. TDD Message Phone: 1-800-326-2577.

The text of this release is available from the Department of Labor electronic bulletin board, LABOR NEWS, at 202-219-4784. Callers must pay any toll-call charges. 300, 1200, 2400, 9600 or 14,400 BAUD; Parity: None; Data Bits = 8; Stop Bit = 1. Voice phone: 202-219-8831.

JOB DEVELOPMENT BROKER DEMONSTRATION GRANT AWARDS

GRANTEE	PROJECT LOCATION(S)	AWARD
Community Services Corporation (Corvallis, Oregon)	Benton, Lincoln and Linn Counties, Oregon	$435,623
Laborer's International Union of North America (Washington, D.C.)	California, Connecticut, Delaware, Hawaii, Southern Illinois, Iowa, Kansas, Maine, Massachusetts, Missouri, Nebraska, New Hampshire, New Jersey, Nevada, Pennsylvania, Rhode Island, and Vermont	$750,000
State University of New York, Educational Opportunity Center (EOC) of the Bronx	New York, New York	$565,243
Career Centers of Southwest Virginia, Inc. (Lebanon, Virginia)	Buchanan, Dickenson, Lee, Russell, Scott, Tazewell and Wise Counties and the City of Norton, Virginia	$480,988
Tarrant County Junior College (Fort Worth, Texas)	Tarrant County and the City of Fort Worth, Texas	$387,838
Pima County Community Services (Tucson, Arizona)	Pima County and the City of Tucson, Arizona	$250,349
Arapahoe County Employment and Training Division (Aurora, Colorado)	Adams, Arapahoe, Boulder, Denver and Jefferson Counties and the City of Denver, Colorado	$350,000
City University of New York (CUNY)	New York, New York	$507,357
Alarm Association of Florida, Inc. (Tallahassee, Florida)	Broward, Dade, Escambia, Monroe, Orange, and Osceola Counties and the City of Tampa, Florida	$475,538
New Horizon, Inc. (El Paso, Texas)	El Paso County and the City of El Paso, Texas	$464,819
University of Texas at El Paso	El Paso County, Texas	$629,313
	TOTAL	**$5,295,861**

GRANTEE: Laborers' International Union of North America (LIUNA)

LOCATION: The States of California, Connecticut, Delaware, Hawaii, southern Illinois, Iowa, Kansas, Maine, Massachusetts, Missouri, Nebraska, New Hampshire, New Jersey, Nevada, Pennsylvania, Rhode Island, and Vermont.

FUNDING AMOUNT: $750,000

TARGET GROUP: 3,000 dislocated workers

SYNOPSIS: The union will integrate the job development and training needs of employers under collective bargaining agreements with LIUNA with qualified dislocated workers. This activity will be developed through the Laborers' Institute for Training and Education (LITE) which will be responsible for the day-to-day operations of the demonstration program. Four LIUNA regions covering the 17 States listed above will be involved with the project.

The project operated by LITE will establish One-Stop sites in each union region at which services will be provided. Training will be conducted primarily by the instructors funded by the Laborers-Associated General Contractors Education and Training Fund which presently provides apprenticeship training.

CONTACT:
Terence M. O'Sullivan
Administrator
Laborers' Institute for Training
and Employment
905 16th Street, N. W.
Washington, D. C. 20006-1765
(202) 737-8320

U.S. Department of Labor

Employment Standards Administration
Wage and Hour Division
Washington, D.C. 20210

FAX COVER SHEET

OFFICE OF THE ADMINISTRATOR
WAGE AND HOUR DIVISION

FAX NUMBER (202) 219-4753
COMMERCIAL (202) 219-8305

TO: Jennifer O'Connor **DATE:** 2/16/96

FAX NUMBER: _____ **PAGES:** _____
(include cover sheet)

LOCATION: _____

FROM Marjorie Parmer

If you do not receive all of the pages please call:

NAME: _____

NUMBER: _____

COMMENTS/INSTRUCTIONS:

U.S. Department of Labor

Office of the Solicitor
Washington, D.C. 20210

FEB 15 1996

file Laborers

MEMORANDUM FOR DAVITT J.McATEER
and
MARIA ECHAVESTE

FROM: STEVEN J. MANDEL SJM
Associate Solicitor, FLS

SUBJECT: SCA/Bankruptcy matter raised by the Laborers' Union

The Laborers' Union has brought to the attention of Deputy Chief of Staff Harold Ickes a matter involving the bankruptcy proceeding of The Cleaning Network Corporation d/b/a/ Martic Systems, Inc. Martic is a service contractor that apparently owes its employees a substantial amount of back wages and fringe benefits. On October 13, 1995, Martic filed a petition for bankruptcy under Chapter 11. Thereafter, Dallas Wage-Hour advised the contracting agency to commence withholding payments due to Martic on contracts other than the contract on which the SCA violations allegedly occurred. Ten days later, however, after consulting with the Regional Solicitor's and U. S. Attorney's Offices, Wage-Hour advised the contracting agency to withdraw its notice of "cross withholding." The Laborers' Union then complained to Wage-Hour, in a letter dated December 7, 1995, that such "cross withholding" was permissible and warranted.

In our view, there are strong arguments that recoupment of the back wages and fringe benefits is permissible where the post-petition withholding occurs on the same contract in which the violations occurred, but that such a remedy probably is not permissible from payments due under other contracts. This position is supported by established case law, and the two cases attached to the Laborers' Union letter to Wage-Hour provide scant support for a contrary view.

At the same time, the law in this area is evolving rapidly, and we are taking this opportunity to review our options to seek redress for service employees in instances in which their employer has filed for bankruptcy. We also suggest that Wage-Hour determine whether Martic is seeking to continue performance on the government contract where the violations occurred; if it is, we may be able to compel Martic to cure its previous defaults.

A similar issue has arisen in another case (PCT Services, Inc.) involving the Laborers' Union that is being handled by our Regional Solicitor's Office in Atlanta. The Union might raise this issue with DOL officials at the conference in Bal Harbour next week.

Please work w/ LeeAnn Iwademi (60)
Steve Silverman
to ~~[illegible]~~
to set ~~these~~
set up, if
appropriate (if not
approp, let me know why)

LABORERS' INTERNATIONAL UNION OF NORTH AMERICA

ARTHUR A. COIA
General President

R. P. VINALL
General
Secretary-Treasurer

January 8, 1995

Ms. Jennifer O'Connor
Office of the Chief of Staff
The White House
Washington, D.C. 20500

Dear Jennifer:

I am writing on behalf of the Human Services Committee of the Navaho Nation Council to request several meetings with administration officials during the week of January 29th. The Laborers' represent several entities on the Navaho Reservation, including workers at the Indian Health Service, and we are often called upon to provide assistance to the Human Services Committee and the Legislative Branch of the Navaho Nation Council.

In that regard, the eight members of the Human Services Committee will be in town specifically to meet with the following departments and officials:

1) Thomas Dowd, Director, Labor Department's Employment and Training Administration, Division of Indian and Native American Programs (DINAP) to discuss Adult Training Title II-A, Youth Training Title II-C, Summer Youth, Employment Title II-B, Native American Programs Section 401, Veterans Employment, JOBS, Dislocated Workers Title III and Youthbuild;

2) Michael Trujillo, Director, Indian Health Service (IHS) and Philip Lee, Assistant Secretary for Health, Public Health Service, to discuss concerns of employees at the Navaho Area IHS office, and concerns of contract employees under Public Law 93-638 Contract Programs of the Navajo Nation;

3) Willie Hensley, Director, Department of Veteran Affairs, Minority Veterans.

LIUNA
INNOVATION
AT WORK

HEADQUARTERS: 905-16th Street, NW • Washington, D.C. 20006-1765 • (202) 737-8320 • Fax: (202) 737-2754

I would appreciate any assistance you can provide with setting up these meetings during the week of January 29th. If you have any questions feel free to contact me at (202) 942-2211.

Sincerely,

DONALD KANIEWSKI
Legislative and
Political Director

DK/rk

January 18, 1996

NOTE TO: BIBB HUBBARD

FROM: STEVE SILVERMAN

Could you please facilitate arrangements of meeting #1 on the attached.

cc: Jen O'Connor

LABORERS' INTERNATIONAL UNION OF NORTH AMERICA

ARTHUR A. COIA
General President

R. P. VINALL
General
Secretary-Treasurer

January 8, 1995

Ms. Jennifer O'Connor
Office of the Chief of Staff
The White House
Washington, D.C. 20500

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INNOVATION
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Sincerely,

DONALD KANIEWSKI
Legislative and
Political Director

DK/rk

READER'S DIGEST
PLEASANTVILLE, NY 10570

SENIOR EDITOR • *Eugene H. Methvin*

September 27, 1995

Ms. Ginny Terzano
Deputy Press Secretary
The White House
Washington, D.C.

BY FAX 456 6210

Dear Ms. Terzano:

Attached are the questions we discussed by phone, and I'd like to talk to a knowledgeable spokesman about them so we can follow up, clarify, etc. I will be around tomorrow but will be out of town Friday. If convenient, I could come over on Monday for an interview. Many thanks for your help.

Sincerely yours,

Eugene H. Methvin

WASHINGTON EDITORIAL OFFICE • 1730 RHODE ISLAND AVE. N.W., SUITE 406, WASHINGTON, D.C. 20036
202-223-9520

Jennifer O'Connor

EXECUTIVE OFFICE OF THE PRESIDENT

08-Dec-1995 06:01pm

Labor - Laborers

TO: Nancy-Ann E. Min

FROM: Elisabeth S. Topel
Office of Mgmt and Budget, HD

CC: Barry T. Clendenin
CC: Richard J. Turman

SUBJECT: Update: Natioanl Institute of Enviro Health Sciences

Earlier today you sent two e-mails from the Office of the Chief of Staff regarding a Laborers International request to maintain funding for the hazardous waste workers and emergency responder training grant program. The e-mails ask if the $3.5 million cut to this grant program will be mentioned in the veto message for the VA/HUD Appropriations bill.

Funding for this program falls under T.J.'s area. Although the program is administered by NIH's National Institute of Environmental Health Sciences, it is funded through EPA's Superfund appropriation. EPA requests the funds in its budget, which, once appropriated, are transferred to NIEHS to carry out this activity. (You'll recall that a proposal to cut this program was much disputed during EPA's REGO II process -- it ended up not getting cut.) The program was funded at $20 million in FY95, the President's FY96 Budget requested $20 million, but the FY96 conference level is $16.5 million, $3.5 million below FY96.

We spoke with NR (Natural Resources) staff who had not yet been approached by T.J. about the e-mails. They said that there had been no mention of the cut to this program in any VA/HUD Appropriations bill SAP or letter. NR staff relayed that T.J. was familiar with the issue and was a strong supporter of the program, but that lots of environmental programs were getting cut in FY96. They thought it would be unlikely that there would be any specific reference to the cut in the veto message for the VA/HUD Appropriations bill.

Please fax to

Don Kaniewski
202 737-2754

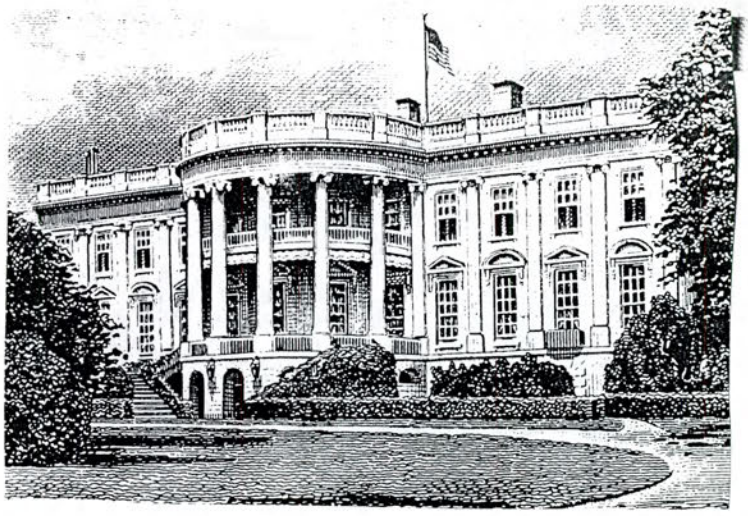
w/ cover note saying
"Hello

"We were able to set up the tour you requested. We're still working on the meeting."

Kaniewski 4/10/96

Kaniewski
poster
buttons
video
→ worst piece of President
→ working thru campaign apparatus

-need better coord on House staff



THE WHITE HOUSE
WASHINGTON

OFFICE OF THE DEPUTY CHIEF OF STAFF
HAROLD ICKES

JENNIFER O'CONNOR SHANA TESLER

TO: Don Kaniewski / 737-2754

DATE: 4-4-96 #of pages: 1

SUBJECT: We were able to set up the tour you requested. We're still working on the meeting.

THE WHITE HOUSE, WASHINGTON, DC 20502 (202)-456-6350, FAX (202)456-7929

THE WHITE HOUSE

WASHINGTON

April 3, 1996

MEMORANDUM

TO: Ms. Stacy Forster
WH Political Affairs
OEOB 115
INSIDE MAIL

Melinda N. Bates

FROM: Melinda N. Bates
Special Assistant to the President and
Director, Visitors Office

SUBJECT: Reserved Group Tour

This memorandum confirms that a reservation has been made for a guided tour of the White House for 27 people, from the **Laborers Union** group (ID# 57834), on Tuesday, April 23. The group will be combined with others.

The number of people in the group may **not** be increased. If there is a reduction in the number scheduled, or if for some reason the tour is cancelled, please notify the Group Tour department as soon as possible at 202-456-2202. Our TDD (telephone device for the deaf) is 202-456-2121.

The members of the group should arrive at the Visitor Entrance on East Executive Avenue at **8:00 a.m.** Please have the person in charge of your group PRESENT THIS MEMO to the officer on duty.

Please note that occasionally the tour hours may be affected by the scheduling of official events. You should call the Visitors Office recording at 202-456-7041 to confirm that the tours will be conducted.

On behalf of the President and Mrs. Clinton, we hope that members of your group will enjoy their visit to the White House.

LOG

LABORERS' INTERNATIONAL UNION OF NORTH AMERICA

ARTHUR A. COIA
General President

R. P. VINALL
General
Secretary-Treasurer

File

March 27, 1996

Ms. Jennifer O'Connor
Special Assistant to
the President
The White House
1600 PA Ave., N.W.
Wash., D.C. 20500

Dear Jennifer:

As we discussed some time ago, our core political activists from Wisconsin will be in town the week of April 22. I had discussed with you arranging an A-1, top of the line, very special White House tour. You had asked for notice about a month in advance and this is it. The **best** day of that week would be Tuesday, April 23, in the afternoon. Monday is bad but Wednesday is the other option; they leave Thursday morning. I am attaching their names, Social Security numbers and dates of birth. Either I or someone from my staff will likely accompany them and I'll get you that information when we have a day and time.

That week is the week of the Building and Construction Trades Department Legislative Conference. That will bring to town our people who represent the Indian Health Service workers. The problems they are experiencing, as discussed briefly in the attached letter, are serious and most of all frustrating. We should not be treated this way and the workers should not be treated this way.

The request is for a meeting with Mr. Phil Lee, Assistant Sec. for Health, Mr. Trujillo, IHS director, and the Area Directors from the Navajo, Phoenix, Aberdeen and Albuquerque Areas. Your help and assistance in setting it up would be most appreciated. They will make themselves available Monday, Tuesday or Wednesday and I'm sure they will stay through Thursday or Friday if necessary.

This, as you know, is an agency that we have had a great of difficulty dealing with on any number of issues. Previously, you were most helpful in getting some long delayed back-pay awards paid. This meeting will be helpful in resolving a larger set of problems.

LIUNA
INNOVATION
AT WORK

HEADQUARTERS: 905-16th Street, NW • Washington, D.C. 20006-1765 • (202) 737-8320 • Fax: (202) 737-2754

Thank you in advance for your help and assistance. Please contact me as soon as you have some information on these items.

Sincerely,

Donald J. Kaniewski

DONALD J. KANIEWSKI
Legislative and
Political Director

/er
Enclosure

Withdrawal/Redaction Marker
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. list	[Personally Identifiable Information] [partial] (6 pages)	03/14/1996	b(6)

COLLECTION:
Clinton Presidential Records
Chief of Staff
Jennifer O'Connor (Labor)
OA/Box Number: 8146

FOLDER TITLE:
Laborers' International Union of North America (LIUNA)

2024-0267-S
rs4063

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

LEGISLATIVE CONFERENCE - APRIL 1996

Local 113

William Earl Johnson
SS#
DOB (b)(6)

Alex Fredrick Jordan
SS#
DOB

Shirley Ann Jordan
SS#
DOB

Nacarci Earle Feaster
SS#
DOB

Local 237

Steve Edward Reimer
SS#
DOB

Donna Jean Reimer
SS#
DOB

Tracy Lyn Reimer
SS#
DOB

Wendy Marie Reimer
SS#
DOB

Local 392

John Steven Krauss
SS#
DOB

Local 464

Ron Robert Niebuhr
SS#
DOB (b)(6)

Local 539

Conrad Robert Umentum
SS#
DOB

Margaret Marie Umentum
SS#
DOB

Local 931

Allan Eugene Wild
SS#
DOB

Carol Ann Wild
SS#
DOB

Local 1050

Paul Rene DeBeir
SS#
DOB

Local 1086

Thomas Martin Klein
SS#
DOB

Dorothy Ann Klein
SS#
DOB

Local 1086 (continued)

Cindy Anne Miller
SS#
DOB (b)(6)

Local 1359

Dennis Gary Henrichs
SS#
DOB

Local 1440

George William Lengjak
SS#
DOB

Laura Beth Longjak
SS#
DOB

District Council

Michael Robert Ryan
SS#
DOB

Thomas Eugene Fisher
SS#
DOB

Joseph Michael Oswald
SS#
DOB

David Mitchell Ahrens
SS#
DOB

Lauren Lee Bloyd
SS#
DOB

File

EXECUTIVE OFFICE OF THE PRESIDENT

16-Apr-1996 07:22pm

TO: Shana E. Tesler

FROM: Jennifer M. O'Connor
Office of The Chief of Staff

Loraine Fishback
HHS
(202) 690-7699

SUBJECT: Laborers

Could you please take care of this -- today --

1) Call HHS. The Laborers meeting should be on the 24th. We need form them the time and place -- they can pick it -- and we will tell the laborers. You can call Don Kaniewski's office to let him know time and place.

2) Call Amy Liu at HUD. Tell her that the Laborers Int'l would like to meet with Kevin Marchman about some issue related to the Los Angeles Housing Authority. They like to do it in the same time frame as the HHS meeting. The Laborers people would be Leon Gannon, from the Laborers international in DC and Sergio Rosconi from the local in california. I don't know the specific issue and if they need to know that in order to decide to meet, then Marchman or his staff should call Kaniewski to ask about what the issue is.

Thanks.

Trujillo opposed a meeting w/ Cuomo
IHS Wide Consent for all
anything

THE WHITE HOUSE
WASHINGTON

[redacted]

Morning ~~2nd~~ 23rd

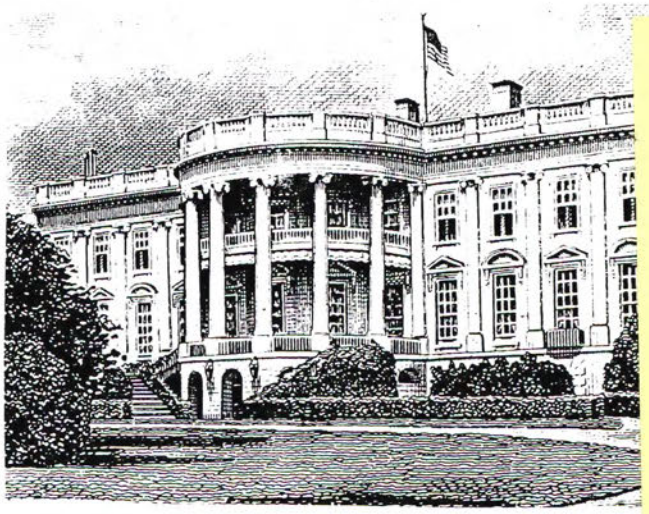
Dr. Lee is no longer in management due to reorganization.

Pending 4/9/96

Mary Beth Donohue is to call Paula see Jennifer before calling again

Done 4/4/96

Over Mary Beth at 690-6133 to ask if meeting is being set up or what is status



Pls fax to Mary Beth / Donahue 690-7755

THE WHITE HOUSE
WASHINGTON

OFFICE OF THE DEPUTY CHIEF OF STAFF
HAROLD ICKES

JENNIFER O'CONNOR SHANA TESLER

TO: Mary Beth Donahue / 690-7755

DATE: 4-4-96 #of pages: 8

SUBJECT:

Mary Beth,

Please see attached. It would be helpful if Lee + Trujillo could do the meeting described on the next page.

-Jen

LABORERS' INTERNATIONAL UNION OF NORTH AMERICA

ARTHUR A. COIA
General President

R. P. VINALL
General
Secretary-Treasurer

March 27, 1996

Ms. Jennifer O'Connor
Special Assistant to
the President
The White House
1600 PA Ave., N.W.
Wash., D.C. 20500

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I will take care of this JS

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The request is for a meeting with Mr. Phil Lee, Assistant Sec. for Health, Mr. Trujillo, IHS director, and the Area Directors from the Navajo, Phoenix, Aberdeen and Albuquerque Areas. Your help and assistance in setting it up would be most appreciated. They will make themselves available Monday, Tuesday or Wednesday and I'm sure they will stay through Thursday or Friday if necessary.

Mary Beth

This, as you know, is an agency that we have had a great of difficulty dealing with on any number of issues. Previously, you were most helpful in getting some long delayed back-pay awards paid. This meeting will be helpful in resolving a larger set of problems.

Thank you in advance for your help and assistance. Please contact me as soon as you have some information on these items.

Sincerely,

Donald J. Kaniewski

DONALD J. KANIEWSKI
Legislative and
Political Director

/er
Enclosure

LEGISLATIVE CONFERENCE - APRIL 1996

Local 113

William Earl Johnson
SS# (b)(6)
DOB

Alex Fredrick Jordan
SS#
DOB

Shirley Ann Jordan
SS#
DOB

Nacarci Earle Feaster
SS#
DOB

Local 237

Steve Edward Reimer
SS#
DOB

Donna Jean Reimer
SS#
DOB

Tracy Lyn Reimer
SS#
DOB

Wendy Marie Reimer
SS#
DOB

Local 392

John Steven Krauss
SS#
DOB

Local 464

Ron Robert Niebuhr
SS#
DOB (b)(6)

Local 539

Conrad Robert Umentum
SS#
DOB

Margaret Marie Umentum
SS#
DOB

Local 931

Allan Eugene Wild
SS#
DOB

Carol Ann Wild
SS#
DOB

Local 1050

Paul Rene DeBeir
SS#
DOB

Local 1086

Thomas Martin Klein
SS#
DOB

Dorothy Ann Klein
SS#
DOB

Local 1086 (continued)

Cindy Anne Miller
SS#
DOB (b)(6)

Local 1359

Dennis Gary Henrichs
SS#
DOB

Local 1440

George William Lengjak
SS#
DOB

Laura Beth Longjak
SS#
DOB

District Council

Michael Robert Ryan
SS#
DOB

Thomas Eugene Fisher
SS#
DOB

Joseph Michael Oswald
SS#
DOB

David Mitchell Ahrens
SS#
DOB

Lauren Lee Bloyd
SS#
DOB

ARTHUR A. COLA
General President

R. P. VINALL
General Secretary-Treasurer

MASON M. WARREN
1st Vice President

JOHN SERPICO
2nd Vice President

VERE O. HAYNES
3rd Vice President

SAMUEL J. CAIVANO
4th Vice President

ENRICO MANCINELLI
5th Vice President

CHUCK BARNES
6th Vice President

JACK WILKINSON
7th Vice President

GEORGE R. GUDGER
8th Vice President

MIKE QUEVEDO, JR.
9th Vice President

ARMAND E. SABITONI
10th Vice President

CARL E. BOOKER
Assistant to the General President

ROBERT J. CONNERTON
General Counsel

LIUNA
INNOVATION
AT WORK

LABORERS' INTERNATIONAL UNION OF NORTH AMERICA
PACIFIC SOUTHWEST REGIONAL OFFICE
620 Sunbeam Avenue • Sacramento, CA 95814 • (916) 446-3622 • Fax: (916) 446-6655

March 11, 1996

Don Kaniewski, Director
Legislative Department
Laborers' International Union of N.A.
905 16th Street, NW
Washington, DC 20006

Dear Don,

The situation in the Indian Health Service requires action and attention from the top of the operating organization in coordination with select Area Directors.

This is the current situation:

- The Union now represents approximately 4,270 professional and non-professional employees in the Indian Health Service in five (5) different area in seven (7) states at approximately thirty facilities.

- We have filed one Federal case against the Phoenix Area I.H.S.;
  one F.L.R.A. Hearing in progress re. definition of employee under Intergovernmental Participation Agreement;

- 45 U.L.P.'s filed - one complaint hearing scheduled;
- 2 Arbitrations in progress;
- 5 Scheduled;
- 1 before the F.L.R.A. for review
- Negotiations coming up for Navajo Area
  Acoma-Laguna-Canoncito
  Rockville, Maryland
  Gallup Indian Medical Center

Primary Issues:

1. Failure of Local Officials to settle issues through the Grievance Procedure. Area Office refuses to allow Local areas to settle issues.

2. Area office encourages Local Officials to stall to try to frustrate the Union and to actively retaliate against Union officials (Winslow, Arizona and Crownpoint, New Mexico).

3. I.H.S. is taking a discriminatory and racist position that Indian employees hired through Indian Preference have a three year trial period as opposed to one year probationary period for non-Indian employees, even when there is no competition for the position and the employee is qualified. Therefore, giving Indian employees no recourse to the Grievance Procedure.

4. No initiative toward Partnership.

5. The perception that I.H.S. Management are working with Tribal Leaders to contract out health services including 638 of whole facilities and Service Units.

We need to come to some understanding and find some mechanism that eliminates the hostility between the Union and Management, encourages Area Directors to resolve issues at their service units and ends the recourse to litigation that has characterized our relationship so far.

March 11, 1996
Don Kaniewski, Director
Legislative Department
Page 3.

I suggest that we have a meeting in Washington, D.C. with the Deputy from the Department of Health and Human Services, the head of I.H.S. and at least the Area Directors from the Navajo, Phoenix, Aberdeen and Albuquerque Areas.

Thank you for your help in this area. There is so much more we could do if we were working together rather than against each other.

Sincerely,

Robert D. Purcell, Attorney/
International Representative

cc: Mason M. Warren
Ron Myers
Pat Hallahan
Robert Wright
Arnold Vigil
Julie Claymore

Please
Do a request to Pres.
Corresp. that we send
a congrats note from
Potus to this guy

MEMORANDUM

TO: Shana Tesler, The White House

FROM: Becky Gillespie, COPE Department, AFT

DATE: April 3, 1996

RE: Request for Letter from President Clinton for One of Our Staff

---

Shana, this is a follow-up to the phone conversation you had with Debbie Mazia yesterday regarding a request for a letter for one of our staff members. Debbie is on vacation until Monday, so I "inherited" this request.

The letter is for:

Robert Matthew Ripperger
Second Lieutenant, US Army

Nickname: Rob

Address:

Lt. Robert M. Ripperger
Auxiliary Field, #6
Ranger Class 5-96
B Company, 6th RTB
Camp James E. Rudder
Elgin AFB, FL. 32542

He graduates from Ranger Training on Friday, April 12, 1996.

[If at all possible, could President Clinton include the line: "Yes, your dad is a miracle worker."]

Shana, thank you for your assistance -- one last request: is it possible to have a copy of the letter faxed to me at 202-393-6375 so I can forward it on to Bob Ripperger ("Dad") on our staff -- he said he would love to see it.

FAX

The American Federation of Teachers
555 New Jersey Avenue, NW
Washington, D. C.

Date 4/3/96

Number of pages including cover sheet 2

To:

Shana Tesler

The White House

Phone

Fax Phone **456-7929**

CC:

From:

COPE DEPARTMENT

Becky Gillespie

Phone **202-879-4436**

Fax Phone **202-393-6375**

REMARKS:

☐ Urgent ☐ For your review ☐ Reply ASAP ☐ Please comment

File Laborers

Call Kamenetzky

EXECUTIVE OFFICE OF THE PRESIDENT

09-Feb-1996 10:50am

TO: Jennifer M. O'Connor
TO: Shana E. Tesler

FROM: Francis J. Szollosi
Office of the Chief of Staff

SUBJECT: Calls

10:50am Chuck Bannell from Dodd's office..203-258-6953

10:30 Rick Diegle 728-6046

10:20 Marjorie Tarmey, DOL, 219-8305

10:00 for Shana...Jane Danowitz 822-7337

Frank

Cases LIUNA brought up do impact on our policy. Now, atty will rearrange the policy.

SEP, need to sit down w/ FLSA reform to see what to do abt. fact & was released b/c was in keep w/ pol policy

Call Marge

Call Kamuscle
↓
Did Δ's poly b/c of at but typing typos

FAXED
12/8/95
Called 2/11/96

THE WHITE HOUSE
WASHINGTON

Call Marge 219-8035 how did they proceed with this?

OFFICE OF POLITICAL AFFAIRS

PHONE: (202) ~~456-6257~~ 456-6350
FAX: (202) 456-7929

From:

Doug Sosnik **Karen Hancox**

Amanda Crumley	**Donald Dunn**	**Eric Eve**
Cookab Hashemi	**Wendy Heistad**	**Gordon Li**
Ray Martinez	**Linda Moore**	**Marsha Scott**
Craig Smith	**Wendy Smith**	**Joe Trahern**

Got full accting of why issue arose bankruptcy & whether WH can hold $ out of bankruptcy & make union head.

OTHER: Jennifer O'Connor

TO: Marge Tarmey

DATE: 12/8 **# OF PAGES** 32 **(including cover)**

FAX NUMBER: 219-4753

OFFICE NUMBER: 219-8305

MESSAGE: Please take appropriate action and let me know what you do. If you have questions, Jennifer Roof at 202 466-6790 is their lawyer with the answers

LABORERS' INTERNATIONAL UNION OF NORTH AMERICA

ARTHUR A. COIA
General President

R. P. VINALL
General
Secretary-Treasurer

M E M O R A N D U M

TO: Harold Ickes
Deputy Chief of Staff for Policy and Political Affairs

FROM: Donald Kaniewski
Legislative and Political Director
Laborers' International Union of North America, AFL-CIO

DATE: December 7, 1995

RE: **The Cleaning Network Corporation d/b/a Martic Systems, Inc. at Hill Air Force Base and EG&G Idaho, Inc.**

Martec Systems is a service contractor working at Hill Air Force Base and EG&G Idaho, Inc. This contractor owes substantial back wages, fringes and dues on behalf of its employees, who are members of Laborers' International Union of North America, AFL-CIO ("LIUNA"). This contractor recently filed for bankruptcy, and it appears that the employees, the Health and Welfare Fund and the Local Union will have no chance to collect the monies they are owed unless the Department of Labor responds by instituting a withholding of monies due from Martec's contracts at Hill AFB and EG&G Idaho, Inc.

Mr. Randall G. O'Neal is Director of Government Contracts and Enforcement of the DOL. In his capacity as Director, he has sole authority to institute such a withholding. As set forth in the attached correspondence from Jennifer M. Roof, Legal Counsel, to Mr. O'Neal, the DOL apparently instituted a withholding action at the Hill AFB by notice dated October 17, 1995. Questions as to the DOL's legal authority to institute this withholding arose due to the contractor's bankruptcy, and Ms. Roof provided the Air Force Contracting Officer's Legal Counsel and Mr. O'Neal with the cases and cited regulations which supported the DOL's authority for this action under the Service Contract Act ("SCA"). Nevertheless, Mr. O'Neal on October 27, 1995, unilaterally decided to rescind the DOL withholding notice. Ms. Roof and Mr. Bob Setera, LIUNA Representative, have made several phone calls and sent letters to Mr. O'Neal requesting action or at least an explanation, but to no avail.

Recently, Martec's bank filed a motion to convert Martec's Chapter 11 bankruptcy case to a case under Chapter 7. Based on this motion, the bank and other creditors have a secured interest in all of Martec's receivables, including the monies due on Martec's federal contracts. Under the SCA, these monies should be used to pay the wages, benefits, and union dues of the employees who performed work on the contracts. It is clear, however, that unless the DOL institutes an immediate withholding of monies from these contracts, the employees, Local Union Health and Welfare Fund, will not be paid.

I would greatly appreciate if you would review this matter as soon as possible. If Mr. O'Neal issues a withholding notice now, a substantial portion of the back wages, fringes and dues can be paid as intended under the SCA and its implementing regulations.

Enclosures

cc: Steve Cuddy, Esquire
Jennifer M. Roof, Esquire
Bob Setera

LAW OFFICES

CONNERTON, RAY & SIMON
1920 L STREET, N.W.
FOURTH FLOOR
WASHINGTON, D.C. 20036-5004
(202) 466-6790

FACSIMILE
(202) 659-3458

WRITER'S DIRECT DIAL NUMBER

ROBERT J. CONNERTON
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JAMES S. RAY
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LAURENCE E. GOLD
RONALD SIMON
TERESE M. CONNERTON
JOHN McN. BROADDUS
DANIEL S. KOZMA
DAVID L. MALLINO†
DIRECTOR OF GOVERNMENT AFFAIRS

PAUL GREENBERG
MICHAEL BARRETT
JENNIFER M. ROOF

JACK CURRAN†
LEGISLATIVE DIRECTOR

†NOT A MEMBER OF THE BAR

December 7, 1995

VIA FACSIMILE (214) 767-2730

Mr. Randall G. O'Neal
Director of Government Contracts Enforcement
U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division
Federal Building, Rm. 800
525 South Griffin Street
Dallas, TX 75202-5007

Re: The Cleaning Network Corporation d/b/a Martec Systems, Inc. at the Hill Air Force Base and EG&G Idaho, Inc.

Dear Mr. O'Neal:

As you are aware, this firm represents the Laborers' National Health and Welfare Fund and Laborers' International Union of North America (LIUNA) Local Union 155.

We sent you correspondence on November 6, 1995, requesting a conference call with you regarding why the DOL decided to withdraw its October 17, 1995 notice of cross-withholding on the contract of the "Cleaning Network Corporation" d/b/a "Martec" at Hill AFB. To date, we have received no response to this letter or any of our previous letters and phone calls on the matter.

As we explained to you in our letters, the DOL has full authority under the Service Contract Act ("SCA") to institute a post-bankruptcy petition withholding or cross-withholding of monies due on Martec's contracts. According to the cases on this issue which were sent to you, such action by the DOL contitutes an exercise of police or

regulatory power within the meaning of Section 362 (b)(4) of the Bankruptcy Code, and thus is outside the scope of the automatic stay. The courts also have concluded that the withheld monies are not the property of the debtor's estate, and therefore are not even subject to the bankruptcy proceedings. Furthermore, the Service Contract Act Regulations, 29 CFR §4.187(b)(5), provide that withheld monies have priority over any claim by the trustee in bankruptcy.

Once again, we respectfully urge you to immediately withhold these monies that are owed to the Health and Welfare Fund, LIUNA Local 155 and Martec employees. On December 1, 1995, Zions First National Bank, Martec's bank, filed a motion to convert Martec's Chapter 11 bankruptcy case to a case under Chapter 7 (see copy attached). As set forth in this Motion, the bank has a perfected security interest in all Martec's assets, including Martec's contract rights and proceeds therefrom receivables, which would encompass the monies under Martec's federal service contracts. Further, the IRS has a junior lien, and the Colorado Department of Revenue ("CDR") also claims a lien on these assets. The Motion also provides that Martec has been audited and had a negative net worth of $564,359.22, as of September 30, 1995. Based on the large amount of the priority claims of the bank, IRS and CDR (totalling approximately $2 Million), it thus appears that the Fund, Local Union and employees will have no chance of collecting the substantial monies to which they are owed under the SCA through the bankruptcy proceedings.

Under the SCA and its implementing regulations, the federal contract monies should rightfully go to pay the wages of the employees who performed work on the projects; to the Health and Welfare Fund which has provided them substantial benefits without payment; and to their Local Union, which is owed the dues that have been withheld from the employees' paychecks. In their capacity as private parties, the employees, the Health and Welfare Fund and the Local Union have no means to protect these rights. The DOL, however, is empowered to secure payment of monies owed to them. If the DOL issues a withholding notice <u>now</u>, a substantial portion of the back wages, fringes and dues will be able to be paid as contemplated under the SCA and the implementing regulations.

We urge your prompt attention to this matter.

Very truly yours,

Jennifer M. Roof

Jennifer M. Roof

Enclosure

cc: Rosemarie Hechinger
Zenith Administrators
Health and Welfare Fund Administrator

Bob Setera
LIUNA Representative
VIA FACSIMILE (202) 737-2754

Steve Cuddy, Esq.

CALLISTER NEBEKER & McCULLOUGH
JEFFREY L. SHIELDS (2947)
ANDRES' DIAZ (4309)
800 Kennecott Building
Salt Lake City, Utah 84133
Telephone: (801) 530-7300

Attorneys for Zions First National Bank

RECEIVED
DEC 04 1995
PENSION FUND

UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

* * * * * * *

IN RE: THE CLEANING NETWORK CORPORATION, Debtor.	Bankruptcy No. 95C-25680 (Chapter 11) **NOTICE OF HEARING ON ZIONS FIRST NATIONAL BANK'S MOTION TO CONVERT THE DEBTOR'S CHAPTER 11 CASE TO A CASE UNDER CHAPTER 7**

* * * * * * *

NOTICE IS HEREBY GIVEN that an evidentiary hearing on Zions First National Bank's Motion To Convert The Debtor's Chapter 11 Case To A Case Under Chapter 7, (the "Motion") will be held before the Honorable Glen E. Clark, Chief Bankruptcy Judge, on January 3, 1995, at 2:00 o'clock p.m. in Room 369, United States Courthouse, 350 South Main, Salt Lake City, Utah 84101 (or as otherwise posted by the Court).

Pursuant to Bankr. D. Ut. Rule 523(e), parties in interest have until two (2) days prior to the hearing to

to the original Certificate of Service only) maintained by the Clerk of the Court and to the following:

Colorado Department of Revenue
c/o Neil L. Tillquist, Esq.
Office of the Colorado Attorney General
1525 Sherman Street, Fifth Floor
Denver, CO 80203

DATED: December 15th, 1995.

CALLISTER NEBEKER & McCULLOUGH
JEFFREY L. SHIELDS
ANDRES' DIAZ

By: Andres Diaz
Andres' Diaz
Attorneys for Zions First National Bank

G:\CDN\PUBL\AD\PLD\151253-1

CALLISTER NEBEKER & McCULLOUGH
JEFFREY L. SHIELDS (2947)
ANDRES' DIAZ (4309)
800 Kennecott Building
Salt Lake City, Utah 84133
Telephone: (801) 530-7300

Attorneys for Zions First National Bank

UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

* * * * * * *

IN RE:	)	Bankruptcy No. 95C-25680
	)	(Chapter 11)
THE CLEANING NETWORK CORPORATION,	)	
	)	**CERTIFICATE OF SERVICE**
Debtor.	)	

* * * * * * *

I hereby certify that a true and correct copies of each of the following pleadings:

1. ZIONS FIRST NATIONAL BANK'S MOTION TO CONVERT THE DEBTOR'S CHAPTER 11 CASE TO A CASE UNDER CHAPTER 7;
2. MEMORANDUM IN SUPPORT OF ZIONS FIRST NATIONAL BANK'S MOTION TO CONVERT THE DEBTOR'S CHAPTER 11 CASE TO A CASE UNDER CHAPTER 7; and
3. NOTICE OF HEARING ON ZIONS FIRST NATIONAL BANK'S MOTION TO CONVERT THE DEBTOR'S CHAPTER 11 CASE TO A CASE UNDER CHAPTER 7.

were mailed, via United States mail, postage prepaid, this 1ST day of December, 1995, to all parties listed on the mailing matrix (a true and correct copy of which is attached

Jeffrey L. Shields (2947)
Andres' Diaz (4309)
CALLISTER NEBEKER & McCULLOUGH
900 Kennecott Building
Salt Lake City, Utah 84133
Telephone: (801) 530-7346

UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

* * * * * * *

IN RE: THE CLEANING NETWORK, CORPORATION, Debtor.	Bankruptcy No. 95C-25680 (Chapter 11) **ZIONS FIRST NATIONAL BANK'S MOTION TO CONVERT THE DEBTOR'S CHAPTER 11 CASE TO A CASE UNDER CHAPTER 7**

* * * * * * *

Pursuant to 11 U.S.C. § 1112, Zions First National Bank ("Zions"), by and through its attorneys of record, hereby move this Court for an order converting the Debtor's Chapter 11 case to a case under Chapter 7. Cause exists for conversion of the case to Chapter 7. Zions' Motion is

supported by the records and pleadings on file with the Court as well as the supporting memorandum filed herewith.

DATED: December 13th, 1995.

CALLISTER NEBEKER & McCULLOUGH
JEFFREY L. SHIELDS
ANDRES' DIAZ

By: Andres Diaz
Andres' Diaz
Attorneys for Zions First National Bank

150302-1

Jeffrey L. Shields (2947)
Andres' Diaz (4309)
CALLISTER NEBEKER & McCULLOUGH
900 Kennecott Building
Salt Lake City, Utah 84133
Telephone: (801) 530-7346

UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

* * * * * * *

IN RE: THE CLEANING NETWORK, CORPORATION, Debtor.	)	Bankruptcy No. 95C-25680 (Chapter 11) **ZIONS FIRST NATIONAL BANK'S MOTION TO CONVERT THE DEBTOR'S CHAPTER 11 CASE TO A CASE UNDER CHAPTER 7**

* * * * * * *

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CALLISTER NEBEKER & McCULLOUGH
JEFFREY L. SHIELDS (2947)
ANDRES' DIAZ (4309)
800 Kennecott Building
Salt Lake City, Utah 84133
Telephone: (801) 530-7300

Attorneys for Zions First National Bank

UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

* * * * * * *

IN RE:	)	Bankruptcy No. 95C-25680
	)	(Chapter 11)
THE CLEANING NETWORK CORPORATION,	)	
	)	**CERTIFICATE OF SERVICE**
Debtor.	)	

* * * * * * *

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1. ZIONS FIRST NATIONAL BANK'S MOTION TO CONVERT THE DEBTOR'S CHAPTER 11 CASE TO A CASE UNDER CHAPTER 7;
2. MEMORANDUM IN SUPPORT OF ZIONS FIRST NATIONAL BANK'S MOTION TO CONVERT THE DEBTOR'S CHAPTER 11 CASE TO A CASE UNDER CHAPTER 7; and
3. NOTICE OF HEARING ON ZIONS FIRST NATIONAL BANK'S MOTION TO CONVERT THE DEBTOR'S CHAPTER 11 CASE TO A CASE UNDER CHAPTER 7.

were mailed, via United States mail, postage prepaid, this 1ST day of December, 1995, to all parties listed on the mailing matrix (a true and correct copy of which is attached

file a written response to the Motion. In the absence of a timely response, the relief requested in the Motion, may be granted without a hearing.

A copy of any such response should also be served upon counsel for Zions First National Bank at the address set forth above.

DATED: December 1ST, 1995.

CALLISTER NEBEKER & McCULLOUGH
JEFFREY L. SHIELDS
ANDRES' DIAZ

By: Andres Diaz
Andres' Diaz
Attorneys for Zions First National Bank

150500-1

CALLISTER NEBEKER & McCULLOUGH
JEFFREY L. SHIELDS (2947)
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800 Kennecott Building
Salt Lake City, Utah 84133
Telephone: (801) 530-7300

Attorneys for Zions First National Bank

RECEIVED
DEC 04 1995
PENSION FUND

UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

* * * * * * *

IN RE:	Bankruptcy No. 95C-25680 (Chapter 11)
THE CLEANING NETWORK CORPORATION,	
Debtor.	**NOTICE OF HEARING ON ZIONS FIRST NATIONAL BANK'S MOTION TO CONVERT THE DEBTOR'S CHAPTER 11 CASE TO A CASE UNDER CHAPTER 7**

* * * * * * *

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Pursuant to Bankr. D. Ut. Rule 523(e), parties in interest have until two (2) days prior to the hearing to

JEFFREY L. SHIELDS (2947)
ANDRES' DIAZ (4309)
CALLISTER NEBEKER & McCULLOUGH
900 Kennecott Building
Salt Lake City, Utah 84133
Telephone: (801) 530-7346

Attorneys for Zions First National Bank

UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

* * * * * * *

IN RE:	Bankruptcy No. 95C-25680 (Chapter 11)
THE CLEANING NETWORK CORPORATION, Debtor.	**MEMORANDUM IN SUPPORT OF ZIONS FIRST NATIONAL BANK'S MOTION TO CONVERT THE DEBTOR'S CHAPTER 11 CASE TO A CASE UNDER CHAPTER 7**

* * * * * * *

Zions First National Bank ("Zions"), by and through its attorneys of record, hereby submits this memorandum in support of ZIONS FIRST NATIONAL BANK'S MOTION TO CONVERT THE DEBTOR'S CHAPTER 11 CASE TO A CASE UNDER CHAPTER 7 (the "Motion").

FACTUAL BACKGROUND

1. In 1994 and 1995, the debtor, The Cleaning Network Corporation ("TCN"), entered into four (4) commercial loan agreements and obligations with Zions[1](the "Commercial Loans").[2]

2. The Commercial Loans are properly perfected and fully enforceable secured claims collateralized by, among other things, TCN's chattel paper, accounts, contract rights, machinery, inventory, general intangibles, equipment, and the proceeds therefrom (the "Collateral").

3. Zions has not yet calculated the exact amount of its Proof of Claim, but anticipates a claim in excess of $500,000 which is secured by the Collateral.[3]

4. The Internal Revenue Service (the "IRS") has a junior lien on the Collateral pursuant to certain Notices of Tax Liens.

5. The IRS has filed a Proof of Claim in the amount of approximately $1.4 million.[4]

---

[1] In 1995, TCN also entered into three (3) leases with Zions Credit Corporation (the "Leases") for a vehicle and various items of cleaning equipment. Based upon discussions with the recently appointed trustee in this case, Wayne Elggren, the Trustee anticipates rejecting the Leases and abandoning any interest the estate may have in the collateral subject to the Leases.

[2] One of the Commercial Loans is secured by real property owed by Steven F. Martinez, L.L.C. Zions has filed a Motion for Relief from the Automatic Stay to instigate the foreclosure process as to the real property securing TCN's obligation to Zions.

[3] Zions Credit Corporation also has a claim against TCN related to the Leases.

[4] TCN has objected to the Proof of Claim. Pursuant to TCN's bankruptcy Statement of Affairs and Schedules, TCN lists the IRS as having a $556,945.25 disputed claim.

6. The Colorado Department of Revenue (the "CDR") also claims a lien on a portion of the Collateral in the amount of $75,571.39; the CDR also asserts that its lien is superior to Zions' and the IRS' liens.

7. Prior to the filing of TCN's voluntary bankruptcy petition, Zions became concerned over the large IRS debt and TCN's ability to satisfy the obligations owing to Zions in a timely manner.

8. Based upon those concerns, Zions and TCN agreed to have an independent accountant review TCN's books and records and to analyze the feasibility of TCN's future operations. Alan Funk ("Funk") was hired to perform the review and analysis.

9. In conjunction with his retention, Funk retained the services of Georgia H. Bircumshaw ("Bircumshaw") of the accounting firm of Foote, Passey, Griffin and Company to compile updated financial statements for TCN.

10. Based upon a report dated October 11, 1995, from Bircumshaw, TCN has incurred a *net loss* of $702,654.71 from January 1, 1995, through September 30, 1995. As of September 30, 1995, TCN also had a *negative net worth* of $564,359.22.

11. On or about October 12, 1995, Funk provided an analysis to TCN and Zions in which he sets forth his

conclusions and recommendations regarding the feasibility of TCN's future operations.

12. In his Feasibility Analysis, Funk concludes that "[b]ased on projections from historical activity, we project that TCN will have a [monthly] net $7,635.00 loss from operations before considering other income/expense and extraordinary items. When these items are considered, we project that TCN will have a [monthly] net negative cash flow of $37,695.00."

13. Funk also concluded that the collectibility of approximately $356,000.00 of accounts receivable that are over 200 days old are "highly questionable."[5]

14. Upon receipt of Funk's analysis, Zions and TCN met to discuss the analysis and TCN's future, including the eventual satisfaction of TCN's obligations to Zions; TCN and Zions were unable to reach an agreement regarding the satisfaction of TCN's obligations to Zions.

15. On October 13, 1995, TCN filed its voluntary petition for relief under Chapter 11 of the Bankruptcy Code, Bankruptcy No. 95C-25680.

---

[5] TCN disputes Funk's conclusions as to the collectibility of these old accounts. The bases for TCN's disputes are set forth in Funk's Feasibility Analysis.

16. Almost immediately thereafter, TCN sought emergency authorization for use of cash collateral, which collateral was subject to Zions' properly perfected and fully enforceable security interest and the IRS' junior lien. *See* MOTION FOR AUTHORITY TO USE CASH COLLATERAL dated October 13, 1995, (the "Initial Cash Collateral Motion").

17. After several negotiations and modifications to TCN's Initial Cash Collateral Motion, Zions and the IRS consented to TCN's use of cash collateral on an emergency basis for a two (2) week period. The ORDER AUTHORIZING USE OF CASH COLLATERAL which incorporated the terms of the stipulation and modifications to the Initial Cash Collateral was entered November 7, 1995.

18. The final hearing on TCN's Initial Cash Collateral Motion was held on November 6, 1996. Between the preliminary hearing and final hearing, Zions and the IRS once again negotiated with TCN regarding the use of cash collateral on a continuing basis.

19. Based upon those negotiations and an agreement reached between Zions, the IRS and TCN, the essential terms of which were stated on the record at the November 6th hearing, Zions and the IRS once again consented to TCN's use

of cash collateral on an interim two-week period. *See* ORDER AUTHORIZING USE OF CASH COLLATERAL dated November 28, 1995.

20. After obtaining Zions' and the IRS' consent for the interim use of cash collateral, TCN reneged on its agreement for the continuing use of cash collateral, after which Zions and the IRS withdrew their consent for the further use of cash collateral by TCN.

21. Since its bankruptcy filing, TCN has been unable to generate sufficient cash receipts to pay all of TCN's expenses that have been authorized by the Bankruptcy Court and for which Zions and the IRS consented to the use of cash collateral.

22. On November 16, 1995, TCN filed another MOTION FOR AUTHORITY TO USE CASH COLLATERAL (the "Second Cash Collateral Motion"), which was scheduled for an expedited hearing on November 21, 1995, and a final hearing on December 6, 1995.

23. At the hearing on November 21, 1995, the Court denied TCN's Second Cash Collateral Motion, determined that cause existed for the appointment of a trustee and ordered the United States Trustee's Office to immediately appoint a trustee in this case. On November 22, 1995, Wayne Elggren was appointed trustee.

24. On or about November 14, 1995, Industrial Indemnity ("Industrial") filed a MOTION FOR ASSUMPTION OR REJECTION OF EXECUTORY CONTRACT (WORKER'S COMPENSATION INSURANCE) in which it asserts that as of December 15, 1995, TCN will have to pay $160,508.00 to Industrial to assume the Worker's Compensation Insurance contract.[6] To assume this contract would necessarily require TCN and/or the Trustee to use Zions' cash collateral. Zions has not consented to the use of its cash collateral for such purposes. Without the assumption or replacement of the Worker's Compensation Insurance, TCN will not be able to continue to operate.

25. As of the date of Zions' Motion, TCN has failed to timely file its first monthly financial report as required by the Bankruptcy Code and the Local Rules.

26. There is cause for converting this case to a case under Chapter 7, including, but not limited to, the following:

a. continuing loss to or diminution of the estate and an absence of a reasonable likelihood of rehabilitation;

b. unreasonable delay that is prejudicial to creditors;

[6] The hearing on Industrial's Motion is scheduled for December 19, 1995, at 10:00 a.m.

c. TCN's failure to timely file its first monthly financial report; and

d. TCN's inability to assume or replace the Worker's Compensation Insurance.

ARGUMENT

CAUSE EXISTS FOR CONVERTING TCN'S CHAPTER 11 BANKRUPTCY CASE TO A CASE UNDER CHAPTER 7.

The Bankruptcy Code provides that upon the request of a party in interest, the Court may convert a Chapter 11 case to a case under Chapter 7 "for cause." *See* 11 U.S.C. § 1112(b). The Bankruptcy Code then sets forth ten nonexclusive and nonexhaustive examples of items that would constitute cause[7] for conversion including:

(1) continuing loss to or diminution of the estate and absence of a reasonable likelihood of rehabilitation;

(2) unreasonable delay by the debtor that is prejudicial to creditors;

Id.

[7] The Bankruptcy Court is not limited to the enumerated factors specifically set forth in 11 U.S.C. § 1112(b) in finding that "cause" exists for the conversion of a Chapter 11 case to a case under Chapter 7. *See* In re Gonic Realty Trust, 909 F.2d 624, 626 (1st Cir. 1990) (*quoting* and *citing* In re Santiago Vela, 87 B.R. 229, 231 (Bankr. D.P.R. 1988); In re Markhon Industries, Inc., 100 B.R. 432 (Bankr. N.D.Ind. 1989)). Zions believes that the creditors' lack or loss of confidence in the Debtor constitutes "cause" for purposes of conversion under 11 U.S.C. § 1112(b). *See* Gonic, *supra*, 909 F.2d at 626 ("in determining 'cause' . . . the court may consider other factors as they arise and use its powers to reach appropriate results in individual cases. In re Linwood Smith, 77 B.R. 496, 500 (Bankr. E.D.Pa. 1987).")

Cause for conversion exists in this case. TCN has continually operated at loss since the filing of its bankruptcy petition; Zions' collateral (and hence the estate) continues to diminish in value; and, TCN appears to need an infusion of cash, which infusion is not in prospect. Thus, conversion is appropriate under 11 U.S.C. § 1112(b)(1).

Moreover, because a cash infusion and major reductions in expenses appear to be critical to TCN's ability to reorganize, any delay by TCN and/or the Trustee in obtaining a cash infusion and reducing its expenses is unreasonable. In addition, such delay is prejudicial to creditors in light of TCN's continuing operating losses, the decline in the Collateral values, the continuing increase in administrative expenses and the accrual of interest on secured debt. Thus, conversion is also appropriate under 11 U.S.C. § 1112(b)(3).

CONCLUSION

Based upon the foregoing, Zions respectfully requests that the Court grant Zions' Motion and immediately convert

this case to a case under Chapter 7, and grant such other and further relief as the Court deems just and proper.

DATED: December 1ST, 1995.

CALLISTER NEBEKER & McCULLOUGH
JEFFREY L. SHIELDS
ANDRES' DIAZ

By: Andres Diaz
Andres' Diaz
Attorneys for Zions First National Bank

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†NOT A MEMBER OF THE BAR
*ADMITTED IN VIRGINIA ONLY

November 6, 1995

VIA FACSIMILE (214) 767-2730

Mr. Randall G. O'Neal
Director of Government Contracts Enforcement
U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division
Federal Building, Rm. 800
525 South Griffin Street
Dallas, TX 75202-5007

Re: Martec Systems, Inc. at the Hill Air Force Base

Dear Mr. O'Neal:

As you are aware, this firm represents the Laborers' National Health and Welfare Fund and Laborers' International Union of North America (LIUNA) Local Union 155.

It is my understanding that the DOL sent a letter, dated October 27, 1995 to Mike Smith, Contracting Officer at Hill AFB, rescinding its October 17, 1995 notice of cross-withholding on Martec's contract for monies owed to the Health and Welfare Fund. We are dismayed by DOL's action and we request an explanation.

When the Air Force expressed some concerns over its legal authority to comply with a post-bankruptcy petition cross-withholding, we spent two entire days researching the issue and discussing the matter with Air Force legal counsel. We found ample legal authority to support this cross-withholding action, including two cases permitting similar post-petition cross-withholding actions, and we successfully convinced the Air Force counsel of the propriety of this action. When we initially heard that the DOL was not going to insist that any action be taken on the withholding request, I immediately attempted to contact you by telephone, but to no avail. I sent you a letter by facsimile on October 24, 1995,

explaining the relevant legal authority for this DOL action, and attached thereto copies of supporting cases. I have called your office since that time and left messages for you and we still have received no response. It is my understanding, however, that Bob Setera, LIUNA Representative, was able to speak with you regarding this matter, and you indicated to him that the DOL would insist on the withholding and you would keep us informed.

Despite the above, you took contrary action on behalf of the DOL without giving us any opportunity to speak on the matter. Furthermore, it is my understanding that the DOL never sent a withholding notice to Brad Trost, Contracting Officer at EG&G Idaho, Inc., despite representations to us that such a withholding notice was issued on the same date as the Hill AFB withholding. As a direct result of the DOL's failure to act in these matters, Martec's employees, the Fund and the Local Union are needlessly out of substantial monies to which they are entitled.

Bob Setera and I request an conference call with you to discuss this matter as soon as possible.

Very truly yours,

Jennifer M. Roof

Jennifer M. Roof

Enclosures

cc: Rosemarie Hechinger
Zenith Administrators
Health and Welfare Fund Administrator

Bob Setera
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October 24, 1995

VIA FACSIMILE (214) 767-2730

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Director of Government Contracts Enforcement
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Wage and Hour Division
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525 South Griffin Street
Dallas, TX 75202-5007

Re: Martec Systems, Inc. at the Hill Air Force Base

Dear Mr. O'Neal:

I work with Térese M. Connerton, representing the Laborers' National Health and Welfare Fund and Laborers' International Union of North America Local Union 155.

As you are aware, the Fund has provided benefits on behalf of Martec employees at the Air Force Academy and EG&G Idaho, Inc., and Martec owes substantial monies to the Fund for these benefits. Furthermore, Martec has withheld union dues from the employees' wages, but has failed to forward these monies to the Local Union. On behalf of these entities, we have been working with DOL investigator Diane Rhodes over the past two months to secure a withholding and cross-withholding of monies on the EG&G and Hill AFB contracts, respectively. Unfortunately, the DOL did not issue a cross-withholding on the Hill AFB contract until October 17, 1995, four days after Martec filed for bankruptcy on October 13, 1995. As of today, I do not know whether a withholding has yet been issued regarding the EG&G contract.

This morning, I was advised by Mike Smith, the Hill AFB Contracting Officer, that the Air Force would not honor the DOL withholding request, because it did not believe that the DOL had

legal authority to issue a withholding after the filing of the bankruptcy petition, and that the Fund and Local Union would have to file a proof of claim for monies owed in the Bankruptcy Court. He referred me to Air Force legal counsel, Jennifer Snider and David H. Doro. I spoke with them and faxed them copies of the attached cases, In re: Career Consultants, Inc., 84 B.R. 419 (Bankr. E.D. Va. 1988); In re: Frank Mossa Trucking, Inc., 65 B.R. 715 (Bankr. Mass. 1985). These bankruptcy courts held that similar post-petition withholding actions by the Secretary of Labor pursuant to the Service Contract Act were permissible. Based on these cases, such withholdings by the DOL constitute an exercise of police or regulatory power within the meaning of Section 362(b)(4) of the Bankruptcy Code, and thus are outside the scope of the automatic stay. Moreover, the cases provide that the withheld monies are not the property of the debtor's estate, and thus are not even subject to the bankruptcy proceedings. In addition, the Service Contract Act Regulations, 29 CFR §4.187(b)(5), provide that such monies have priority over any claim by the trustee in bankruptcy. Ms. Snider and Mr. Doro informed me that they would review these cases. Nevertheless, Ms. Snider stated that you had informed her earlier that the DOL was not going to insist that any action be taken on the withholding request, and unless the DOL changed its position, there would thus be no need for the Air Force to take any action.

Please advise me immediately of the DOL's position. I have left a message for you and for Shirley Ebbessen regarding this matter, and have received no response. The DOL has already issued the withholding notice, and I thought that the contracting agency was required to abide by that notice. However, it appears that unless the DOL insists on compliance with its withholding request, the employees, the Fund and the Local Union will have little chance of obtaining the monies to which they are owed. Moreover, it is my understanding from the Contracting Officer that the Hill contract monies are en route to a bank with a secured interest. If the DOL fails to act immediately, the monies will go directly to pay off this creditor outside of the bankruptcy proceeding, and thus Martec's employees, the Fund and the Local Union will be needlessly out of substantial monies to which they are entitled.

Please call me immediately to discuss this matter.

Very truly yours,

Jennifer M. Roof

Jennifer M. Roof

Enclosures

cc: Rosemarie Hechinger
Zenith Administrators
Health and Welfare Fund Administrator

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Mike Smith, Contracting Officer
Hill Air Force Base
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4TH CASE of Focus printed in FULL format.

In re: CAREER CONSULTANTS, INC., t/a Honor Guard Security Services, Debtor; William E. BROCK, Secretary of Labor and United States Department of Labor, Plaintiffs v. CAREER CONSULTANTS, INC. and Gerald M. O'Donnell, Trustee, Defendants

In re Career Consultants, Inc.

No. 85-00406-A, Adversary Proceeding No. 85-0248-A

UNITED STATES BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF VIRGINIA, ALEXANDRIA DIVISION

84 Bankr. 419; 1988 Bankr. LEXIS 318; 18 Collier Bankr. Cas. 2d (MB) 1421; 17 Bankr. Ct. Dec. (CRR) 383; 108 Lab. Cas. (CCH) P35,050; 34 Cont. Cas. Fed. (CCH) P75,463

March 17, 1988, Decided

COUNSEL: Roy B. Zimmerman, Esquire, Counsel for the Debtor, Alexandria, Virginia.

Gerald M. O'Donnell, Trustee in Bankruptcy, Alexandria, Virginia.

S. David Schiller, Assistant U.S. Attorney, Richmond, Virginia, Ms. Catherine O. Murphy, Attorney-at-Law, U.S. Department of Labor Office of Regional Solicitor, Philadelphia, Pennsylvania, Counsel for Plaintiffs.

Ms. Diane O. Ceresi, Attorney-at-Law, Thomas J. Hart, Esquire, Thomas Hart & Associates, Washington, District of Columbia and David Hilton, Esquire, Fairfax, Virginia, Counsel for Union, Movant/Plaintiff-Intervenor.

Duane D. Morse, Esquire, Counsel for Perpetual F.S.B., Movant/Defendant-Intervenor, Wilmer, Cutler & Pickering, Washington, District of Columbia.

JUDGES: [**1] Martin V. B. Bostetter, Jr., Chief Judge.

OPINIONBY: BOSTETTER, JR.

OPINION: [*420] MEMORANDUM OPINION

MARTIN V. B. BOSTETTER, JR., Chief Judge

This Adversary Proceeding comes before the Court upon the complaint of William E. Brock, Secretary of Labor ("Secretary") for a declaratory judgment that the actions against debtor Career Consultants, Inc. ("CCI") contemplated by the Department of Labor under the Service Contract Act, *41 U.S.C.* §§ *351* et seq., the Contract Work Hours and Safety Standards Act, *40 U.S.C.* §§ *327* et seq., and the contracts under [**2] which the United States government agencies employed Honor Guard Security Services ("Honor Guard"), a subsidiary of CCI, are not stayed by section 362(a) of the Bankruptcy Reform Act of 1978, *11 U.S.C.* §§ *101*-151326 ("Code"). The Secretary asserts that the proceedings to deny CCI the award of any contract with the United States government and to determine and pay the sums due employees paid neither the correct regular and overtime wages nor fringe benefits fall within the exception to the automatic stay found in section 362(b)(4):

(b) The filing of a petition under section 301, 302, or 303 of this title, or of an application under section 5(a)(3) of the Securities Investor Protection Act of 1970 *(15 U.S.C. 78eee*(a)(3)), does not operate as a stay --

(4) under subsection (a)(1) of this section, of the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power[.]

11 U.S.C. § *362*(b)(4).

In the alternative, the United Union of Security Guards, the Security Workers Health and Welfare Fund, and the Security Workers Severance and Retirement Fund ("Union"), which has moved to join as a party plaintiff [**3] and represents the Honor Guard workers not properly paid by CCI, argues that relief from the automatic stay is appropriate. n1 Noting the extensive authority vested in the Secretary to "enforce the [Service Contract] Act, make rules, regulations, issue orders, hold hearings, make [*421] decisions based upon findings of fact, and take other appropriate action", the Union urges that this Court defer to the expertise of the Secretary in determining the existence and extent of

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violations of the Service Contract Act.

n1 Although the Union moved to join as a party plaintiff, no order allowing joinder has been presented for entry. The pleadings and memoranda of the Union have been considered, however. Additionally, Perpetual F.S.B. moved to intervene as a party defendant, however Perpetual did not seek a hearing on this motion and no order has been entered granting intervention. Perpetual did not file a memorandum on the relief from stay issue.

In addition, the Secretary seeks a declaratory judgment that funds due CCI under government contracts employing Honor Guard, which are presently withheld by the employing government agencies at the direction of the Department of Labor, are not part of [**4] the debtor's bankruptcy estate. Upon violation of the contract stipulations found in both the Service Contract Act and the Contract Work Hours and Safety Standards Act, the Secretary may withhold from the breaching contractor accrued payments due on the contract breached, and on any other contract with the federal government in an amount sufficient to pay employees at contract standard. Sums due CCI on various government contracts have been withheld in the aggregate amount of $ 532,218.00.

The Secretary argues that these amounts are not "due" under the contracts until CCI is in full compliance with the terms of the contracts. Because the debtor has failed to comply with its contractual, as well as statutory, obligation to pay proper wages and fringe benefits, he argues that the corporation has no entitlement to these funds. Consequently, the contract payments are not part of the bankruptcy estate. The Secretary concludes from these facts that his direction to withhold contract payments is beyond the reach of the automatic stay.

Initially, the trustee relied upon *In re Organized Maintenance, 47 B.R. 791 (Bankr. E. D. N.Y. 1985)* to support his position that the Secretary's actions [**5] are stayed. The order in Organized Maintenance, however, was subsequently vacated as moot by the District Court, which declared the Bankruptcy Court's opinion to be "of no precedential value". See *69 B.R. 298, 299 (E.D. N.Y. 1987)*. Nevertheless, this Court is not bound by the superfluous comment "of no precedential value". Because the trustee in the case at bar cited no other authority in support of his position that funds withheld pursuant to the Service Contract Act were sums due the debtor's bankruptcy estate, withheld in violation of the automatic stay, the Court set this adversary proceeding for a status hearing. At this hearing, the trustee maintained that the underlying rationale of Organized Maintenance was still valid and persuasive notwithstanding the subsequent history of the case. Following this hearing, the Court took the matter under advisement. For the reasons set forth below, this Court holds that the Secretary's action is not subject to the automatic stay.

Although several bankruptcy courts have held that actions under certain labor regulatory laws fall outside the scope of the automatic stay, n2 the Organized Maintenance court came to a contrary conclusion, [**6] finding that an enforcement action under the Service Contract Act was not an exercise of police or regulatory power within the meaning of section 362(b)(4). *47 B.R. at 796*. Organized Maintenance reached its conclusion by applying the so-called "pecuniary purpose" test. *47 B.R. at 795*. [*422] This test is derived from the legislative history to § 362(b)(4) and is further elaborated in a line of cases that appears to begin with *State of Missouri v. United States Bankruptcy Court for the Eastern District of Missouri, 647 F.2d 768 (8th Cir. 1981)*, cert. denied, *454 U.S. 1162, 71 L. Ed. 2d 318, 102 S. Ct. 1035 (1982)*. The holding in Organized Maintenance, however, is problematic.

n2 The Secretary cites several cases in which bankruptcy courts have held that actions under certain labor regulatory laws fall outside the scope of the automatic stay. See, e.g., *In re Quinta Contractors, 34 B.R. 129 (Bankr. M.D. Pa. 1983)* (considering enforcement proceedings under the Davis-Bacon Act, *40 U.S.C §§ 276*(a) et seq.). In *In re LaPorta, 26 B.R. 687 (Bankr. N.D. Ill. 1982)*, the United States Bankruptcy Court for the Northern District of Illinois considered the request of the Secretary of Labor for permission to initiate administrative proceedings "to determine the liability of the debtor [under the Service Contract Act] and the rightful ownership of funds being held by [the Secretary]." *26 B.R. at 690*. The court stated:

> It is manifest that the enforcement of the Service Contract Act which provides for minimum wages and benefits for employees of government contractors is a proceeding akin to an action to protect the public health, safety and the like. The government in such proceeding is not seeking to protect a pecuniary interest it may have in property of the debtor. Instead, the government is proceeding to preserve and protect the rights of employees of a government contractor, a valid public interest contemplated by § 362(b)(4).

Id. at 691. Accordingly, the court allowed the Secretary to proceed in an administrative forum.

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[**7] The enforcement of various statutes has often been held subject to the automatic stay because the statutes in question, "although regulatory in nature, primarily relate to the protection of the pecuniary interest in the debtor's property and not to matters of public safety and health." State of Missouri at 776 (emphasis added). See also, *Donovan v. TMC Industries Ltd., 20 B.R. 997, 1003 (Bankr. N.D. Ga. 1982)*. The overwhelming majority of these cases, however, involve state statutes. See, e.g., *In re Cash Currency Exchange, Inc., 762 F.2d 542 (7th Cir. 1985)* (liquidation proceeding under state currency laws stayed); *State of Missouri, supra* (state insolvency proceedings stayed); *In re Geffken, 43 B.R. 697 (Bankr. N.D.Ohio 1984)* (action under state workman's compensation law stayed); *In re Charter First Mortgage, Inc., 42 B.R. 380 (Bankr. D. Or. 1984)* (action for restitution under state consumer protection statute); *In re First Federal Corp., 42 B.R. 682 (W.D. Va. 1984)* (state action by the Virginia Real Estate Commission); *In re Rath Packing Co., 35 B.R. 615 (Bankr. W.D. Iowa 1983)* (enforcement of state workman's [**8] compensation law); *In re Greenwald, 34 B.R. 954 (Bankr. S.D. N.Y. 1983)* (state health commissioner's action to recover overpayments); *In re Sampson, 17 B.R. 528 (Bankr. D. Conn. 1982)* (action to enforce state's financial responsibility law); *In re Pizza of Hawaii, Inc., 12 B.R. 796 (Bankr. D. Haw. 1981)* (state statute involving taxes and issuance of liquor license); *In re Joe Delisi Fruit Co., 11 B.R. 694 (Bankr. D. Minn. 1981)* (state allocation among creditors of letter of credit posted by debtor prebankruptcy). Thus, these cases all involve state statutes whose primary effect (regardless of their primary purpose) conflicts with the policy and provisions of the Bankruptcy Code and, therefore, are superceded because of federal supremacy. See, e.g., *State of Missouri, 647 F.2d 768, 773 n. 10*. No case that applies the pecuniary purpose test to a state statute discusses the relationship between enforcement of federal statutes and the "police or regulatory power" exception of § 362(b)(4). Because of federal pre-emption, the cases involving state statutes can be accorded but little weight.

The "pecuniary purpose" test has been applied to cases [**9] involving federal statutes but with far different results from the state cases. Numerous courts have excepted National Labor Relations Board ("NLRB") unfair labor practice proceedings from the automatic stay. See, e.g., *N.L.R.B. v. Edward Cooper Painting, Inc., 804 F.2d 934, 941 (6th Cir. 1986); Ahrens Aircraft, Inc. v. N.L.R.B., 703 F.2d 23, 24 (1st Cir. 1983); N.L.R.B. v. Evans Plumbing Co., 639 F.2d 291, 293 (5th Cir. 1981); In re Shippers Interstate Service, Inc., 618 F.2d 9, 11-13 (7th Cir. 1980); In re Bel Air Chateau Hospital, 611 F.2d 1248, 1250-51 (9th Cir. 1979)* (the latter two cases decided under the Bankruptcy Act); *In re Rath Packing Co., 38 B.R. 552 (Bankr. N.D Iowa 1984); In re Powell, 27 B.R. 146 (Bankr. W.D. Mo. 1983)*. Only one bankruptcy case has stayed NLRB proceedings: *In re Theobald Industries, 16 B.R. 537, 539-40 (Bankr. D. N.J. 1981)*. Although the Theobald court extensively discussed State of Missouri and the "pecuniary purpose" test, it enjoined the NLRB proceedings based on the injunctive power of *11 U.S.C. § 105*, rather than § 362, "notwithstanding this inclination to the rationale" of State of [**10] Missouri. *Id. at 540*. Furthermore, the same judge who decided Theobald later explicitly ruled that NLRB proceedings are unaffected by the automatic stay. See *In re Nicholas, Inc., 55 B.R. 212, 214 (Bankr. D. N.J. 1985)*. All of these courts recognized that NLRB proceedings may result in monetary awards against the debtor, yet all ruled that the hearings were not stayed by the debtor's petition for relief. Nevertheless, Organized Maintenance found these cases inapplicable, declaring that [*423] back pay awarded in NLRB proceedings is a "sanction" imposed for violation of law, whereas findings and awards by the Secretary of Labor for violations of the Service Contract Act are not "sanctions". The relevance of this claimed distinction is questionable.

Other proceedings involving federal agencies have been excepted from the automatic stay as well. See, e.g., *E.E.O.C. v. McLean Trucking Industries, 834 F.2d 398 (4th Cir. 1987)* (action brought by Equal Employment Opportunity Commission not subject to stay); *E.E.O.C. v. Rath Packing Co., 787 F.2d 318 (8th Cir. 1986)* (same); *Donovan v. TMC Industries, Ltd., 20 B.R. 997 (Bankr. E.D. Ga. 1982)* (FLSA enforcement); [**11] *In re Tauscher, 7 B.R. 918 (Bankr. E.D. Wis. 1981)* (assessment of penalties for violating FLSA). The District Court for the District of Columbia also rejected the State of Missouri analysis in automatic stay litigation involving the Federal Trade Commission. See *FTC v. R.A. Walker & Associates, Inc., 37 B.R. 608 (D. D.C. 1983)*. The Court noted that State of Missouri "clearly presented a preemption problem." *Id. at 611*. Furthermore, in Rath Packing, the Eighth Circuit extensively discussed the relationship between its decision in State of Missouri and actions brought by federal regulatory agencies. *787 F.2d at 324*. The court held that the EEOC action not only benefits specific individuals but also "vindicate(s) the public interest in preventing employment discrimination". *Id. at 325* (quoting *General Telephone Co. v. EEOC, 446 U.S. 318, 326, 64 L. Ed. 2d 319, 100 S. Ct. 1698 (1979)*). As such, the court considered the EEOC action exempt from the automatic stay: the potential entry of back pay awards for victims of the debtor's dis-

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criminatory practices did not make the EEOC's action a violation of the "pecuniary purpose" test. Likewise, in McLean Trucking, the Fourth Circuit agreed [**12] that the "EEOC's pursuit of pecuniary relief under Title VII is different from an action for money damages under a law not primarily related to the public interest." *834 F.2d at 403.*

A recent case involving administrative proceedings by the Department of Energy makes clear an issue frequently confused when the "pecuniary purpose" test is applied. In *CPI Crude, Inc. v. United States Department of Energy ("DOE") 77 B.R. 320 (D. D.C. 1987),* the District Court considered the debtor's claim that administrative proceedings by the DOE commenced during the pendency of the bankruptcy action protected a pecuniary interest and, therefore, violated the automatic stay. The court rejected this contention, declaring:

While it is true that the assessment by the government of a debtor's liability for violations of law may look like the "protection of a pecuniary interest," such a reading of section 362(b)(4) and of that provision's legislative history would render the exception unworkable. It is generally the case that the government regulates private conduct by establishing penalties for certain violations of rules it prescribes. This does not mean that when it seeks to enforce the regulatory [**13] scheme in question, it is merely seeking to protect some "pecuniary interest" in the monies represented by the penalties or damages levied. To hold otherwise would be to read subsection (b)(5) out of the statute, at least to the extent that it "permit[s] the entry of a money judgment" against the debtor. H.R. Rep. No. 95-595, 95th Cong. & Admin. News 1978, p. 6299. Under the "pecuniary interest" test as it seems to be applied, a money judgment could never be entered against a debtor, thus triggering the automatic stay. If it is necessary to give meaning to Rep. Edward's suggesting that section 362(b)(4) does not give relief from a stay where the government seeks to protect a pecuniary interest, one can conceive of situations in which the government might be seeking to perfect an interest in the debtor's property for its own account. See, e.g., *In re Coleman American Cos. Inc., 26 B.R. 825 (Bankr. D. Kan. 1983)* (post-petition IRS assessments void as violative of stay).

Id. at 323.

Although Organized Maintenance opined "there seems no reason why" enforcement of the Service Contract Act [*424] should not be stayed, "why employee-creditors should be put in a preferred position [**14] over other creditors", *47 B.R. at 796,* the court ignored "a more fundamental policy involved, that policy being the public interest in the enforcement of a social remedial Act of Congress." *Donovan v. TMC Industries, Ltd., 20 B.R. 997, 1002 (Bankr. N.D.Ga. 1982)* (quoting *In re Joydon, Inc., 4 Bankr. Ct. Dec. 166, 167 (Ref. N.D. Ohio 1978),* a Service Contract Act case decided under the Bankruptcy Act). The purpose of the Service Contract Act is to set labor standards for service contracts made with federal agencies. See S. Rep. No. 798, 89th Cong., 1st Sess., reprinted in 1965 U.S. Code Cong. & Ad. News 3737; H.R. Rep. No. 948, 89th Cong., 1st Sess. (1965). While these standards do protect employees, they also protect competitors from unfair competition by employers paying subminimum wages. Id. at 3739. These measures also help ensure that the government will not benefit from unpaid labor, a policy interest of the United States. See 29 CFR, subtitle A, § 4.187. Thus, the Service Contract Act, including provisions for its enforcement, was enacted to assure compliance with wage standards considered to be in the public interest. Coloring the Secretary's action [**15] here as "primarily" for a "pecuniary purpose" would be a simplistic view of the situation. Because the Secretary is proceeding to preserve and protect a valid public interest, this Court finds the action falls within the exception to the automatic stay granted by section 362(b)(4).

In addition to requesting that this Court declare his action excepted by section 362(b)(4), the Secretary also asks this Court to determine that the funds withheld by the employing agencies are not property of the estate.

To date, several courts have declared that the trustee in bankruptcy is not entitled to money withheld under the Service Contract Act. Generally, these decisions have reached the same conclusion from two different approaches. The first considers that the debtor's breach causes the funds to be impressed with a trust, either constructive or statutory, for the benefit of the undercompensated employees. Alternatively, courts have held that the non-breaching party has the right to recoup any damages caused by the breach from any funds otherwise due the debtor in the same transaction. Under this theory, to the extent the damages equal or exceed the funds withheld, the debtor has no interest in [**16] the funds and, therefore, the stay has not been violated.

The more common approach relies primarily on *Pearlman v. Reliance Insurance Company, 371 U.S. 132, 9 L. Ed. 2d 190, 83 S. Ct. 232 (1962).* In Pearlman, the Supreme Court ruled that a surety who has paid employees under a performance bond has priority over the trustee in bankruptcy to funds withheld under a government contract. *371 U.S. at 141-142.* The trustee in the case at bar attempted to distinguish Pearlman by noting that the issue in that case involved the rights of

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a surety, not the government's right to withhold funds. This distinction is untenable. The trustee failed to note that the Court held the surety's rights were derived from the government's. The Court first ruled that the government had an equitable right to retain contract funds for the benefit of the unpaid laborers. The Court then ruled that the surety, having paid the laborers, could resort to the same remedies available to the government. If a surety whose rights are derivative has priority over the bankruptcy trustee, then plainly the government has priority as well. See *id. at 141.*

Several Bankruptcy courts have relied directly on Pearlman to exempt the Secretary [**17] and his direction to withhold from the ambit of § 362(a). For example, *In re Security Unlimited Enterprises, Inc., 96 Lab. Cas. (CCH) P 34,316 (Bankr. N.D. Ill. 1986)* declared that monies withheld under the Service Contract Act "are not property of the estate of the debtor for the purpose of the BRA (Bankruptcy Reform Act)." Id. at 45,418 (parenthetical supplied). Again, in *In re G.R. Rankin Security Service, 26 Wage & Hour Cas. (BNA) 632* (Bankr. M.D. N.C.), the bankruptcy court relied on Pearlman to find that "such funds are the (Secretary's) plaintiff's property and are due to be returned to the plaintiff." (parenthetical supplied). [*425] See also, *In re Quinta Contractors, Inc., 34 B.R. 129 (Bankr. M.D. Pa. 1983)* (holding that up to the extent of wage violations, payments withheld under similar provision of Davis-Bacon Act are not property of the estate). The Comptroller General also cited Pearlman as authoritative when ruling that wage underpayment claims under the Service Contract Act have priority to funds held by the government over any claim by the trustee in bankruptcy See *In re Cascade Reforestation, Inc., 56 Comp. Gen. 499 (1977).*

Similarly, another [**18] bankruptcy court, in a case directly on point here, relied on Pearlman to rule that post-petition withholding did not violate the automatic stay because the funds withheld were not property of the estate. See *In re Frank Mossa Trucking, Inc. 65 Bankr. 715 (Bankr. N.D. Mass. 1985).* The Mossa court specifically noted the legislative history of § 541, quoting these Historical and Revision Notes from Senate Report No. 95-989:

"Situations occasionally arise where property ostensibly belonging to the debtor will actually not be property of the debtor, but will be held in trust for another . . . . This section . . . . will not affect various statutory provisions that give a creditor of the debtor a lien that is valid outside as well as inside bankruptcy, or that creates a trust fund for the benefit of a creditor of the debtor."

65 Bankr. at 718, n. 3. In Pearlman, the Supreme Court reached its conclusion that the government and, therefore, the surety had priority over the trustee even while acknowledging "there is no statute which expressly declares that a surety does acquire a property interest in a fund like this." *371 U.S. at 136.* While [**19] citing and discussing Pearlman with approval, the Mossa court went further, finding that the express provisions of the Service Contract Act create a statutory trust for the benefit of undercompensated employees, so that funds withheld or to be withheld in accordance with the statute are not the property of the estate.

Other federal decisions buttress the conclusion in Mossa. For example, funds withheld pursuant to the Secretary's request under the Service Contract Act were held not subject to garnishment, even though the administrative process that would determine the claim had not yet commenced. *Amoco Oil Co. v. Southeastern Mail Transport, 628 F. Supp. 37 (M.D. Fla. 1985).* In Amoco Oil, a non-bankruptcy case, a judgment creditor sought to garnish contract payments held by the government, which the Secretary of Labor had directed the contracting agency to withhold from the debtor pending resolution of Service Contract Act violations. The court held that neither the debtor nor, therefore, the garnishor was entitled to the funds until the administrative proceedings were concluded and the employees compensated in accordance with the Service Contract Act. *Id. [**20] at 38.* Other authority has held that a contractor who breaches his obligations under the Service Contract Act is divested of all interest in withheld funds up to the amount of the violation even if the unpaid employees cannot be compensated because they cannot be found; instead, the money goes to the United States Treasury. See *American Waste Removal Company v. Donovan, 748 F.2d 1406 (10th Cir. 1984).*

Furthermore, regardless of the Secretary's action, the contracting agencies are entitled to withhold payment from Career Consultants, Inc. ("CCI"), and, therefore, the trustee. It is undisputed that CCI failed to perform in accordance with the contract's terms, one of which was to comply with the requirements of the Service Contract Act. The government's bargained-for-exchange was not only the provision of services but also the promise that the employees would be paid in accordance with federal law. The United States requires this clause in its service contracts to ensure that the government will not benefit from unpaid labor. See 29 CFR Subtitle A § 4.187. Upon the contractor's breach of this promise, the government was entitled to withhold funds sufficient to remedy the breach [**21] under principles of recoupment.

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Even without the express contract term, courts have held that a failure to pay for labor is tantamount to an abandonment of [*426] the work. See, e.g., *In re Pacific Marine Dredging and Construction, 79 Bankr. 924, 16 Bankr. Ct. Dec. (CRR) 915 (D. Oregon 1987); United States v. Commonwealth of Pennsylvania, Department of Highways, 349 F. Supp. 1370 (E.D. Pa. 1972).* Pacific Marine declared that the debtor had no legal or equitable interest in contract funds held by the plaintiff county service district because the debtor's failure to pay for labor was a breach of contract relieving the plaintiff of the obligation to pay the debtor. Accordingly, the court held the fund was not property of the estate. *16 Bankr. Ct. Dec. (CRR) at 918.* Furthermore, since the debtor had no rights to the fund, neither could the secured lender's interest attach to the fund. Id.

It is well-established that a petition in bankruptcy does not affect the right to recoup damages for breach of a contract against funds otherwise due under the same contract. See, e.g., *Lee v. Schweiker, 739 F.2d 870, 875 (3rd Cir. 1984); In re Alpco, 62 B.R. 184, 188 (Bankr. S.D. Ohio 1986); In re [**22] Clowards, 42 B.R. 627, 628 (Bankr. D. Ohio 1984); In re Yonkers Hamilton Sanitarium, 34 B.R. 385,* (S.D. N.Y. 1983); *Waldschmidt v. CBS, Inc., 14 B.R. 309, 314 (M.D. Tenn. 1981).* See also Collier on Bankruptcy, para. 553.03 (15th ed. 1987). The Fourth Circuit acknowledged the doctrine of recoupment and distinguished it from a setoff in *First National Bank of Louisville v. Master Auto Service Corporation, 693 F.2d 308 (4th Cir. 1982).* There the court stated, "[A] set-off is a counterclaim arising from an independent claim the defendant has against the plaintiff. Recoupment is the right of the defendant to have the plaintiff's monetary claim reduced by reason of some claim the defendant has against the plaintiff arising out of the very contract giving rise to the plaintiff's claim." *Id. at 310, n. 1.* Because recoupment adjusts liability on an individual transaction, recoupment should be allowed regardless whether the breach occurred prepetition or postpetition. *In re Clowards, 42 B.R. at 628.*

Since the trustee takes property subject to rights of recoupment, the only remaining question is who determines the amount to be recouped. Because a claim in recoupment [**23] is essentially a defense to liability for funds otherwise due the estate, this Court could determine the matter. It is the conclusion of this Court, however, that the administrative proceedings initiated by the Secretary provide the proper forum for resolving this issue, subject to final review by this Court. To the extent the funds withheld by the Secretary's direction exceed the debtor's liability as determined by the administrative process, the excess is property of the bankruptcy estate. *In re Quinta Contractors, Inc., 34 B.R. 129 (Bankr. M.D. Pa. 1983).*

By ruling that, to the extent of the debtor's liability, the funds withheld are not property of the estate, this Court holds only that the Secretary holds a right to these funds superior to the trustee. A surety, not a party to this proceeding, also claims a right to the same funds in a related adversary proceeding. This ruling does not resolve the priority between the Secretary and the surety. Although a competing claim may exist, because these funds are not property of the estate, any such claim is not properly before this Court.

An appropriate order shall issue.

Dated: March 17th, 1988.

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65 Bankr. 715 printed in FULL format.

In re FRANK MOSSA TRUCKING, INC., Debtor

In re FRANK MOSSA TRUCKING, INC.

Bankruptcy No. 4-80-00527-G

UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF MASSACHUSETTS

65 Bankr. 715; 27 Wage & Hour Cas. (BNA) 1428; 104 Lab. Cas. (CCH) P34,786; 34 Cont. Cas. Fed. (CCH) P75,241

November 27, 1985

COUNSEL: T. Timothy Ryan, Jr., Solicitor of Labor, Albert H. Ross, Regional Solicitor, Constance B. Franklin, United States Department of Labor, Office of the Solicitor, Boston, Massachusetts.

Alfred J. Doyle, Jr., Worcester, Massachusetts, for Debtor.

Richard P. Salem, Leicester, Massachusetts, Trustee.

JUDGES: Paul W. Glennon, Bankruptcy Judge.

OPINIONBY: GLENNON

OPINION: [*716] PAUL W. GLENNON, Bankruptcy Judge.

MEMORANDUM RE: TRUSTEE'S OBJECTIONS TO THE APPLICATION FOR ORDER APPROVING DISTRIBUTION OF WITHHELD FUNDS TO EMPLOYEES AND THE MEMORANDUM AND PROPOSED ORDER FILED BY THE SECRETARY OF LABOR, UNITED STATES DEPARTMENT OF LABOR

This matter comes before the Court because the United States Department of Labor is seeking authorization to distribute sums withheld from Frank A. Mossa, individually, pursuant to section 3(a) of the Service Contract Act of 1965, *41 U.S.C.* §§ *351*-358 (1982) (the "Act"). The trustee, Richard P. Salem, Esquire (the "Trustee"), objects to distribution of at least some of the amounts withheld.

PROCEDURAL BACKGROUND

Frank A. Mossa, d/b/a Frank A. Mossa Trucking ("Mossa"), entered into three mail hauling contracts with the United States Postal Service (USPS), which contracts are identified as 1) Run # 02011 -- Solicitation # 021-35-79; 2) Run # 01511 -- Solicitation # 021-60-79; and 3) Run # 01514 -- Solicitation # 021-105-B-79. Prior to August 15, 1980, when Frank Mossa Trucking, Inc. (the "Debtor"), a corporation formed by Mossa on September 25, 1979, filed a voluntary petition in bankruptcy under Chapter 11 of the Bankruptcy Code, Mossa and/or the corporation -- Mossa was a one hundred percent stockholder -- were the subject of an investigation by the Wage and Hour and Public Contracts Division of the United States Department of Labor for alleged violations of the Service Contract Act of 1965.

The investigation disclosed that Mossa had failed to pay his employees covered by the Act the wages and fringe benefits required in contracts with the USPS in violation of those contracts and section 2(a)(2) of the Act. n1 By letter dated July 11, 1980 and pursuant to section 3(a) of the Act, n2 the Assistant Regional Administrator of the Wage and Hour Division directed USPS officials to withhold $43,000 on the aforementioned contracts until the violations were resolved.

n1 Section 2(a)(2) provides:

A provision specifying the fringe benefits to be furnished the various classes of service employees, engaged in the performance of the contract or any subcontract thereunder, as determined by the Secretary or his authorized representative to be prevailing for such employees in the locality, or, where a collective bargaining agreement covers any such service employees, to be provided for in such agreement, including prospective fringe benefit increases provided for in such agreement as a result of arm's-length negotiations. Such fringe benefits shall include medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to

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provide any of the foregoing, unemployment benefits, life insurance, disability and sickness insurance, accident insurance, vacation and holiday pay, costs of apprenticeship or other similar programs and other bona fide fringe benefits not otherwise required by Federal, State, or local law to be provided by the contractor or subcontractor. The obligation under this subparagraph may be discharged by furnishing any equivalent combinations of fringe benefits or by making equivalent or differential payments in cash under rules and regulations established by the Secretary.

41 U.S.C. § *351*(a)(2).

n2 Section 3(a) provides:

Any violation of any of the contract stipulations required by section 2(a)(1) or (2) or of section 2(b) of this Act shall render the party responsible therefor liable for a sum equal to the amount of any deductions, rebates, refunds, or underpayment of compensation due to any employee engaged in the performance of such contract. So much of the accrued payment due on the contract or any other contract between the same contractor and the Federal Government may be withheld as is necessary to pay such employees. Such withheld sums shall be held in a deposit fund. On order of the Secretary, any compensation which the head of the Federal agency or the Secretary has found to be due pursuant to this Act shall be paid directly to the underpaid employees from any accrued payments withheld under this Act. *41 U.S.C.* § *352*(a) (emphasis supplied).

The USPS honored the request and withheld payments due Mossa on August 6, 1980 ($11,224.80); on October 20, 1980 [*717] ($5,357.36) and in February, 1981 ($9,453.37). Money was withheld on two of the three contracts which ran to Mossa personally, since Mossa was doing business as Frank A. Mossa Trucking, an unincorporated business, at the time the contracts were executed. The two contracts were numbered 01511 and 02011. The first was executed in full on June 21-22, 1979, and the second was executed in full on June 28, 1979.

On October 25, 1982, the Department of Labor filed an application with this Court for an order approving the distribution of $26,035.53 in withheld funds to employees. In its application, the Department of Labor erroneously assumed the Debtor, not Mossa individually, had violated section 2(a)(2) of the Act. Nevertheless, the Department argued that the withheld funds were not property of the bankrupt's estate within the meaning of *11 U.S.C.* § *541*. According to the Department, under the terms of the contract between the contractor (Mossa) and the USPS the contractor had no entitlement to the withheld funds if it failed to pay wages in accordance with the terms of the contracts. Furthermore, the Department argued that the withholding provisions of the Act effectively establish a trust fund for the contractor's employees, which fund is not the property of the bankruptcy estate.

On December 8, 1982, the Trustee filed an objection to the Application of the Department of Labor. The Trustee asserted:

1. In so far as the funds in question are proposed to be distributed in satisfaction of claims against the debtor said fund should be turned over to the Trustee to be administered and distributed in accordance with the U.S.Bankruptcy Code.

2. To the extent the Department of Labor's efforts entail the enforcement of claims held by employees of the debtor said efforts were stayed by *11 U.S.C.* § *362*(a)(6).

3. To the extent the Department of Labor levied on funds after August 15, 1980, the date of debtor's petition in bankruptcy, to enforce claims of the employees of the debtor said levy was in violation of *11 U.S.C.* § *541*.

4. The United States Bankruptcy Code is the will of the U.S. Congress concerning the equitable distribution of assets in the case of a bankrupt debtor and therefore should control to the extent there may be any conflict with provisions of the Service Contract Act of 1965, *41 U.S.C.* § *351* et seq., concerning payments to creditors of the debtor.

The next day, the Department of Labor, having discovered that the contracts from which the funds were withheld belonged to Frank A. Mossa personally and not Frank Mossa Trucking, Inc., wrote to the Court in an attempt to withdraw its October 20, 1982 letter requesting an order approving the distribution of $26,035.53, which letter was docketed on October 25, 1982. The Department reviewed the events leading up to October 25th and attached appropriate documentation to its letter. In addition, the Department advised the Court that Mossa had no ability to assign contracts 01511 and 02011 to the Debtor, Frank Mossa Trucking, Inc. According to the Department, unauthorized assignments were explicitly forbidden by the terms of the USPS contracts and were grounds for contract termination. Thus, even if the corporation assumed Mossa's mail hauling contracts in violation of the express terms

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of the contract, no privity of contract between the USPS and the corporation was created, and the USPS was not obligated to the corporation in any way.

Furthermore, the Department argued that the Act's requirement that employees be paid in accordance with the Act's wage provisions was not obviated by the fact that employees of the Debtor performed the contracts that ran to Mossa personally since section 3(a) of the Act places liability on "the party responsible" for violations. Finally, the Department informed the Court that former employees of the Debtor have no standing to initiate private causes of action since enforcement of the Act is under the sole authority of the Secretary of Labor.

[*718] On December 10, 1982, the Court conducted a hearing on the Department's request and the Trustee's objection. At the hearing, the Department of Labor reiterated the position it set forth in the December 9, 1982 letter. The Trustee argued that the automatic stay provisions of section 362 of the Bankruptcy Code were violated by the actions of the Department of Labor and the USPS in withholding sums after the Debtor filed its bankruptcy petition on August 15, 1980, which sums total $14,810.73. The Trustee repeatedly asserted that the Department was attempting to enforce pre-petition employee wage claims against the Debtor, when in his words, "perhaps these funds should be used to pay post-petition administration expenses . . . ."

At the Court's direction, the Department of Labor submitted a memorandum and proposed order relative to the points discussed at the hearing. The Trustee filed an objection thereto on January 10, 1983. Another hearing was had on January 28, 1983. The Department of Labor thereafter responded to the Trustee's objection on February 7, 1983. It filed a supplemental memorandum in support of its memorandum and proposed order on March 9, 1983. Finally, on September 26, 1983, it moved this Court for a decision.

DISCUSSION

The issues before the Court are 1) whether the amount of money withheld from contracts running to Frank A. Mossa personally after August 15, 1980, the date on which Frank Mossa Trucking, Inc. filed its petition in bankruptcy, is property of the estate; and 2) whether the Department of Labor and the USPS violated the automatic stay provisions of section 362 by withholding monies to pay ostensible pre-petition wage claims of the Debtor's employees.

The Court finds that the funds withheld from the USPS mail hauling contracts are neither property of the estate nor property of Frank A. Mossa personally. The withholding provisions of the Act established a trust fund for the benefit of employees. The legislative history n3 and case law clearly support this proposition. See *In re Security Unlimited Enterprises, Inc., 96 Lab Cas. (CCH) P 34,316 (Bankr.N.D.Ill.1982)* ("Withheld monies under the SCA [Service Contract Act] are not the property of the estate of the debtor for the purposes of the BRA [Bankruptcy Reform Act]".). Cf. *Pearlman v. Reliance Insurance Co., 371 U.S. 132, 83 S. Ct. 232, 9 L. Ed. 2d 190 (1972); Matter of Cascade Reforestation, Inc., 56 Comp.Gen. 499 (1977); Matter of Richard T. D'Abrosia d/b/a Ambrosia Construction Co., 55 Comp.Gen. 774 (1976).*

n3 The Historical and Revision notes following *11 U.S.C. § 541* (1982) contain the following from the Legislative Statements and Senate Report No. 95-989, U.S.Code Cong. & Admin.News 1978, p. 5787, 5868:

Property of the estate: The Senate amendment provided that property of the estate does not include amounts held by the debtor as trustee and any taxes withheld or collected from others before the commencement of the case. The House amendment removes these two provisions. As to property held by the debtor as a trustee, the House amendment provides that property of the estate will include whatever interest the debtor held in the property at the commencement of the case. Thus, where the debtor held only legal title to the property and the beneficial interest in the property belongs to another, such as exists in the case of property held in trust, the property of the estate includes the legal title, but not the beneficial interest in the property.

* * * *

Situations occasionally arise where property ostensibly belonging to the debtor will actually not be property of the debtor, but will be held in trust for another. For example, if the debtor has incurred medical bills that were covered by insurance, and the insurance company had sent the payment of the bills to the debtor before the debtor had paid the bill for which the payment was reimbursement, the payment would actually be held in a constructive trust for the person to whom the bill was owed. This section and proposed *11 U.S.C. 545* also will not affect various statutory provisions that give a creditor of the debtor a lien that is valid outside as well as inside bankruptcy, or that creates a trust fund for the benefit of a creditor of the debtor. See Packers and Stockyards Act § 206, *7 U.S.C. 196.*

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For example, in Pearlman, a surety on a payment bond given by a contractor under the Miller Act was compelled to pay debts of the contractor for labor and materials as [*719] a result of a contractor's default. The Supreme Court held that the surety was entitled by subrogation to reimbursement from a fund otherwise due to the contractor but withheld by the government pursuant to the retainage provisions of the contract with the contractor. The Court so held despite the fact that the contractor had filed a petition in bankruptcy and the government had turned over the withheld funds to the bankruptcy trustee. Additionally, the Court ruled the fund never became a part of the bankruptcy estate and, therefore, its disposition was not controlled by the Bankruptcy Act.

As a consequence of this Court's conclusion that the monies withheld are not property of the estate, the automatic stay provisions are inapplicable. The Trustee's argument that the Department of Labor is enforcing wage claims of corporate employees misperceives the purpose and mode of enforcement of the Act. The purpose of the Act is to compel contractors to pay employees working on federal service contracts in accordance with prevailing rates and benefits. *Berry v. Andrews, 535 F. Supp. 1317 (M.D.Ala.1982).* Aggrieved employees have no standing to initiate claims against the Debtor and courts lack subject matter jurisdiction to hear private parties' claims under the Act. *Nichols v. Mower's News Service, Inc., 492 F. Supp. 258 (D.C.Vt.1980); Service Employees' International Union v. General Services Administration, 443 F. Supp. 575 (D.C.Pa.1977).*

Furthermore, "the party responsible" is liable for violations of the Act. The party responsible includes one who directs and controls employment practices and management policies and who by either action or inaction causes or permits the contract and the Act to be breached. *U.S. v. Sancolmar Industries, Inc., 347 F. Supp. 404, 408 (E.D. N.Y.1972).* There can be no dispute that Frank A. Mossa was the party responsible for violations of the Act both before and after the incorporation of the Debtor. USPS records show no transfers or assignments of the mail hauling contracts from Mossa to the Debtor, and, in any event, a successor corporation to an individual proprietorship does not become a party to a contract previously agreed to by the proprietorship unless there is evidence of assignment. Cf. *Marine Mart, Inc. v. Lavargna, 27 Mass.App.Dec. 93 (1963).* Since Mossa was sole shareholder and president of the Frank Mossa Trucking, Inc., he continued to be the party responsible. He, therefore, is personally liable for the wages due employees. Thus, even if the Court held that the withholding by USPS at the direction of the Department of Labor was to enforce employees' claims, the withholding was against Mossa personally and not a levy against the Debtor in violation of the automatic stay.

In accordance with the foregoing, and the entire record of this case, the Court hereby authorizes the Secretary of Labor to distribute the withheld sums to former employees of Mossa or the Debtor.

SO ORDERED.


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September 23, 1996

21st

Warm greetings to the delegates and guests gathered for the [redacted] convention of the Laborers International.

You, your President, Arthur Coia, and the hundreds of thousands of workers and families you represent play a critical role as we work to rebuild our nation's economy. Your long-standing commitment to putting the American Dream within reach of working Americans -- by fighting for workplace safety, secure pensions, prevailing wage laws, and other worker protections -- has made our nation stronger.

We have made great progress together over the past 4 years, creating more than 10 million new jobs, achieving the lowest combined rate of unemployment and inflation in 27 years, and putting wages on the rise again. We've defeated efforts to repeal the Davis-Bacon Act, gut OSHA and the NLRB, and to legalize company unions.

Republican

But our work is far from complete. Even with the progress we've made, some of our families remain anxious about the future -- anxious about how they will afford medical care or college tuition for their children. We need to strengthen our efforts, not just to preserve what we've accomplished, but also to continue the fight for better jobs, stronger unions, higher wages, and justice for working men and women.

As we work together in the coming months to create a better future for our people, I am grateful for your continuing commitment. Best wishes for a productive convention and many more years of success.

BC/MAH/emu (Corres. #3161318)
(9.laborers.msg)

(Event: 9/23/96)

cc: Presidential Messages, 91 OEOB

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Thank you for your endorsement of my reelection, and also for your efforts to bring back a Congress that will vote to expand opportunities for working people and their families.

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Wendy Byrd
366-3703

phone 366 5565

1100 21st
7th floor
Jewel Hunger
916-5567

LOG

LABORERS' INTERNATIONAL UNION OF NORTH AMERICA
NORTHWEST REGIONAL OFFICE
Plaza 600 • Suite 1302 • 6th and Stewart Streets • Seattle, WA 98101 • (206) 441-6507 • Fax: (206) 728-2608

Fax

FAX TRANSMITTAL FORM

DATE: April 11, 1996

TO: NAME: Ms. Jennifer O'Connor

ORGANIZATION: White House

CC:

FAX NO: (202) 456-2464

FROM: NAME: Don Kaniewski

SUBJECT: Background on request for meeting with Kevin Marchman, HUD week of 4/22/96

PAGES: 9
(Total number including transmittal)

REMARKS: This is the matter I referenced in my earlier message. Your help in securing a meeting and getting this resolved is greatly appreciated.

IS TELEPHONE VERIFICATION REQUIRED? Yes ___ NO X

SEATTLE REGIONAL OFFICE FAX #: (206) 728-2608

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LIUNA
INNOVATION
AT WORK

IMPERIAL COURTS PROJECT

In January 1995, Laborers' Union Local 300 and The Housing Authority of the City of Los Angeles (HACLA) entered into a Memorandum of Understanding (MOU) concerning the Resident Pre-Employment, Apprenticeship, and Employment Program. The Program is designed to provide HACLA residents with economic opportunities as prescribed by regulations in support of Section 3 of the Housing and Urban Development Act of 1968. The Program was created to train public housing residents in various construction trades. The MOU covers the Laborers trade.

The MOU was designed to train residents in the Laborers craft and to provide job opportunities on HACLA projects for these Resident Laborer Trainees. HACLA agreed in the MOU to provide employment opportunities, either directly or through its contractors or subcontractors for resident Laborers Trainees. The MOU, in Section B, also provides that HACLA will use Local 300 and its affiliates as its source for qualified construction journeypersons to serve as trainers/teachers for the Resident Laborer Trainees in the Laborers craft jurisdiction. HACLA agreed in this same section to pay or require its contractors and subcontractors to pay prevailing wages and fringe benefits to journeypersons serving as Laborers Trainers/Instructors. Finally, Subsection 3 of the MOU provides that HACLA will require contractors and subcontractors to hire Resident Laborer Trainees

and sign project labor agreements with the Laborers Union to help ensure continuity of training and employment opportunities.

On Contract Bid Number 1360 for the comprehensive modernization of dwelling units at Imperial Courts, CAL 4-19, in Los Angeles, HACLA breached the MOU and is providing absolutely no employment opportunities to Resident Laborer Trainees. HACLA contracted with Amoroso Construction to perform the work; Amoroso in turn subcontracted part of the work to American Demolition. Although the Contract Bid documents on the Imperial Courts project require Amoroso and American Demolition to hire at least seven Resident Laborer Trainees to perform the work, neither contractor has employed any Laborers or any Resident Laborer Trainees on the project. Rather, Amoroso and American Demolition have employed Carpenter Pre-Apprentices and Carpenter Apprentices to do the work that the Resident Laborer Trainees should be doing. The Contractors are doing this because they can pay a much lower wage and fringe benefit package to these employees than they would be required to pay to Resident Laborer Trainees. This means that the Resident Laborer Trainees who are skilled in the work but command a decent wage, are deprived of the very work opportunities that HACLA agreed to provide them. Amoroso and American Demolition are using Resident Carpenter Pre-Apprentices and Apprentices at a wage barely above the poverty level. The whole point of the program was to get the residents out of poverty, not keep them poor. Moreover, we know from past experience that many minorities do not advance through the

Carpenter Apprenticeship program and will never progress to journeyman status.

Although Amoroso and American Demolition are in violation of its Contract with HACLA by not providing any job opportunities for Resident Laborer Trainees on this project, HACLA refuses to do anything to correct the situation. Laborers' Local 300 has initiated a grievance under the MOU and will proceed to arbitration. However, it is discouraging that while HACLA recognizes a clear contract violation by Amoroso and American Demolition, it refuses to do anything to assist the Resident Laborer Trainees who are out of work and who have been denied work on the Imperial Court project. The Laborers Union, at a significant cost, has trained the Resident Laborer Trainees who now remain unemployed while Carpenter Pre-Apprentices and Apprentices do their work at substandard wages.

MEMORANDUM OF UNDERSTANDING BETWEEN THE HOUSING AUTHORITY OF THE CITY OF LOS ANGELES AND THE LABORERS UNION LOCAL 300 FOR THE RESIDENT PRE-EMPLOYMENT, APPRENTICESHIP AND EMPLOYMENT PROGRAM

The Housing Authority of the City of Los Angeles (HACLA) and the Laborers Union Local 300 hereafter referred to as the HACLA, and Local 300, respectively, enter into this Memorandum of Understanding concerning the Resident Pre-Employment, Apprenticeship and Employment Program, hereafter referred to as the Program. This Program is designed to provide HACLA residents with economic opportunities as prescribed by the interim rule regarding HUD section 3 requirements.[1] Specifically, the Program has been created to train public housing residents in the aforementioned construction trade and prepare them for entry into traditional union-sponsored apprenticeship training within this craft.

WHEREAS, the HACLA and Local 300 agree to cooperate in developing the Program: and

WHEREAS, HACLA and Local 300 desire to assist HACLA's residents in becoming economically self-sufficient by means of the Program; and

WHEREAS, the Program will provide training in preparation for Local 300, supportive financial, educational, and social services to public housing residents pertaining to their specific crafts; and

WHEREAS, HACLA and Local 300 agree that each program participant will need training beyond the Resident Pre-Employment Program to fully qualify and develop his/her skills within the appropriate trade and, therefore, should continue in a traditional Local 300-

---

[1] Interim rule amending 24 CFR Part 135 to implement the comprehensive changes made to section 3 of the Housing and Urban Development Act of 1968 by the Housing and Community Development Act of 1992.

sponsored craft specific apprenticeship program thereafter; and

WHEREAS, HACLA agrees to provide employment opportunities, either directly or through its contractors or sub-contractors for Resident Apprentices;

Now therefore, in consideration of the foregoing and of the following covenants, the parties hereby agree as follows:

A. Covenants of Local 300

1. Local 300 shall dispatch qualified journeypersons to HACLA and or its contractors or sub-contractors. These journeypersons will be capable of providing high quality instruction to resident apprentices in Local 300 trade apprenticeship programs.

2. Local 300 shall implement course curricula to ensure that each Resident Pre-Employee is provided the required amount of on-the-job training and related instruction.

3. Local 300 shall provide the pre-employment training necessary to prepare each Resident Pre-Employee to successfully enter a traditional Local 300 sponsored apprenticeship program. Resident Pre-Employees who: (a) have successfully completed the Pre-Employment Training, (b) have a high school diploma or have passed an equivalency exam (where required), (c) meet selection procedures of individual programs, and (d) who pass a medical test for substance abuse; shall be admitted to the next regularly scheduled Local 300 sponsored apprenticeship program as jobs become available with contractors or sub-contractors performing work on HACLA properties.

4. Local 300 agrees that each Resident Pre-Employee shall have "direct entry" into a Local 300 apprenticeship program upon completion of the Pre-Employment Training as jobs become available with contractors and sub-contractors performing work on HACLA properties without prerequisites, except applying for membership.

5. Local 300 agrees that journeypersons selected to become trainer/teachers will participate in Local 300 funded training to familiarize them with the demographics and life circumstances of HACLA's resident population from which Resident Apprentices will be selected.

6. Local 300 agrees to comply with all applicable equal employment opportunity and affirmative action requirements.

B. Covenants of the HACLA

1. HACLA agrees to use the Local 300 and its affiliates as its source for qualified construction journeypersons to serve as trainers/teachers for the Resident Apprentices within the aforementioned unions' craft jurisdictions.

2. The HACLA agrees to pay, or require its contractors or sub-contractors to pay applicable Federal Prevailing Wages and Fringe Benefits, on behalf of journeypersons serving as trainers/instructors for the Resident Apprentices and Pre-Employees.

3. HACLA through its contractual language shall require contractors and sub-contractors to hire residents in compliance with Section 3 of the Housing and Urban Development Act of 1968 as revised. HACLA shall require project labor agreements with appropriate unions to help insure continuity of training and employment opportunities.

C. Term

1. This Memorandum of Understanding (MOU) shall become effective on the date of the execution, and shall remain in effect for three years.

2. If through any cause, the Local 300 and HACLA fail to fulfill in a timely and proper manner their obligations under this MOU or violate any of the covenants or agreements of the MOU, either party shall thereupon have the right to seek resolution through a dispute resolution process which will be mutually established.

Dispute Resolution Process:

In the event of a dispute, all internal remedies under the applicable project labor agreements shall be exhausted in the prescribed time period as outlined in the agreement. Should these efforts fail to provide resolution, either or both parties shall notify the Federal Mediation and Conciliation Service and request a panel of five arbitrators. Upon receipt of said panel

names, the Union and Employer representatives shall each alternately strike the name of an arbitrator until one name alone remains. The remaining arbitrator shall then be requested to hear the case. The determination of which party is to first strike a name shall be made by lot. The arbitrator shall have no power to add to, subtract from, amend, change, or alter any of the terms of this agreement.

The fee and expenses of the impartial arbitrator shall be divided equally and paid in equal portions by the employer and the Union.

It is understood and agreed that the Arbitrator's award shall be advisory subject to concurrence by the employee, the Union and the Board of Commissioners of the employer.

MEMORANDUM OF UNDERSTANDING BETWEEN THE HOUSING AUTHORITY OF THE CITY OF LOS ANGELES AND THE LABORERS UNION LOCAL 300 FOR THE RESIDENT EMPLOYMENT AND APPRENTICESHIP PROGRAM.

SIGNED AND SEALED IN LOS ANGELES, CALIFORNIA, this 20th day of December, 1994.

HOUSING AUTHORITY OF THE CITY OF OF LOS ANGELES

Donald J. Smith, Executive Director

DATE

December 20, 1994

LABORERS UNION LOCAL 300

Sergio Rascon, Business Manager

DATE

1/19/95

ADDENDUM TO MEMORANDUM OF UNDERSTANDING
BETWEEN THE HOUSING AUTHORITY OF THE
CITY OF LOS ANGELES AND THE LABORERS UNION
LOCAL 300 FOR THE RESIDENT PRE-EMPLOYMENT,
APPRENTICESHIP AND EMPLOYMENT PROGRAM

The parties recognize that Local 300 currently participates in the operation of the Laborers Training School which is funded by the Laborers Training and Retraining Trust Fund for Southern California. The parties also recognize that the classification of Laborer has been designated an apprenticeable craft by the Department of Labor and that Local 300 is now in the process of establishing an apprenticeship program in the State of California. Until the Laborers apprenticeship program is fully operational, the term "apprentice" in the MOU shall mean "trainee," and the term "apprenticeship program" shall mean "Laborers Training School Program." Local 300 shall notify HACLA in writing when the apprenticeship program becomes fully operational.

HOUSING AUTHORITY OF THE
CITY OF LOS ANGELES

By _____ Date: 1/31/95
Donald J. Smith
Executive Director

LABORERS LOCAL 300

By _____ Date: 1/19/95
Sergio Rascon
Business Manager

14.01

File Laborers

LABORERS' INTERNATIONAL UNION of NORTH AMERICA
HEADQUARTERS: 905 - 16th Street, NW, Washington, D.C. 20006-1765

DONALD J. KANIEWSKI
Legislative & Political
Director

May 20, 1996

Jennifer -
The enclosed will appear tomorrow - FYI.
I'll be in touch.

Best.
Don

5/20
Harold + Doug - this will be in tomorrow's NY Times, Wash Post + LA Times
-Jen

When Did Reform Become a Dirty Word?

How Unprecedented Reform at the Laborers' International Union Has Been Turned into a Game of Political Football By Opponents of Change and Right-Wing Extremists

A New Day

In one of the great untold stories of the labor movement's revitalization, a union with a proud past that was sadly tarnished by pockets of corruption is taking matters into its own hands, ridding itself of wrongdoers and eradicating all criminal influence.

The Laborers' International Union of North America (LIUNA) has been working with the U.S. Department of Justice over the past 16 months to initiate widespread internal reforms. This year, for the first time ever, the union will hold direct elections of its top officers by the rank and file.

To our knowledge, this is the first time a union itself has taken such extraordinary steps to reform its operations and reinvent its entire culture. It is a new day for the Laborers.

The Enemies of Change Strike Back

Unfortunately, those who have the most to fear and the most to lose from reform are trying to turn this unprecedented progress into a political football aimed squarely at our union and the entire labor movement.

Robert F. Kennedy knew their type. He said:

Progress is a nice word. But change is its motivator and change has its enemies.

A series of articles generated by the enemies of change, and written by those with axes to grind and ideological agendas to fulfill, has attempted to sully one of the labor movement's shining moments. Right-wingers, seeking to crush labor's nascent rebirth, are politicizing actions that on their merits alone deserve enthusiastic bipartisan support.

So here is the real story about the Laborers' Union: Who we are, what we're doing and where we're going.

Just the Facts

We have enacted and implemented a tough new Ethics and Disciplinary Code with zero tolerance for any form of misconduct. The union created two new independent positions to investigate and prosecute wrongdoing, with *carte blanche* to follow every lead no matter where it goes. And the best possible talent fills those jobs: a former top official in the Justice Department's Organized Crime unit and the former Associate Deputy Director–Investigations, FBI.

In the 16 months of LIUNA's clean-up campaign, these independent officers and their team of the nation's foremost experts on law enforcement and corruption have:

- Opened more than 300 investigations of alleged wrongdoing and improper action;
- Imposed trusteeships on five district councils and local unions that had repeated problems with corruption;
- Terminated more than 20 officers and employees of the international union for Barred Conduct under the Ethics and Disciplinary Code;
- Caused the resignation of seven officers due to irregular financial practices, and three others for election fraud, lying and retaliatory practices; and
- Overturned elections in four local affiliates due to irregularities.

These efforts continue in full force.

Cooperating with Government

The Laborers' Union is doing the job through an innovative Cooperative Agreement with the U.S. Department of Justice, under which the 750,000-member union takes charge of policing itself under the watchful eye of the government. At any point during the Agreement, which runs from February 1995 through February 1998, if Justice decides that our union isn't doing the job, they will pull the plug and take control through a backup Consent Decree.

The government has not exercised this option because it is satisfied with LIUNA's progress to date. Attorney General Janet Reno has characterized our union's reform agreement as "innovative and far-reaching."[1] U.S. Attorney James Burns noted that "there have been substantial steps made"[2] and went on to say:

I don't think we could have gotten a better result for the government than has been reached in these overall agreements. So that's the way to go. It's the wave of the future . . . in this case, I think it was very results-effective.[3]

The Cooperative Agreement was negotiated primarily by career Justice Department officers in the absence of political influence. It stands on its merits. Why should the government take control of a union, with all the attendant harm to the principles of union democracy and the expense to the taxpayer when the union can do the job itself? And why shouldn't the Justice Department give the union a chance when the government holds all of the cards in the form of the backup Consent Decree?

This is the right thing to do — period.

A (Small-d) democratic Union

This fall, LIUNA's rank and file members will elect their general president and general secretary-treasurer. Most unions elect their international officers at conventions, as the Laborers used to do, with the delegates chosen by the membership an entirely democratic process. But under the unique circumstances facing our union, we are going the extra mile.

This election will be free and fair, overseen by an Independent Elections Officer of impeccable credentials, Northwestern University Law Professor Steven B. Goldberg. He will be assisted by former Assistant Secretary of Labor William Hobgood and noted attorney and author Thomas Geoghegan.

LIUNA has also revamped its General Executive Board to provide for the election of regional vice presidents answerable to the membership, reformed the convention process and instituted secret ballots.

In short, our members control this union and their own destiny.

Right-Wing Mud-Throwing

These remarkable achievements are being obscured by a new wave of union-bashing led by Republican congressional leaders fearful of losing their tenuous grip on the levers of power.

In a panic that labor's new leadership is succeeding in revitalizing this once-sleeping giant, House Speaker Newt Gingrich (R-Ga.) and Majority Leader Dick Armey (R-Texas) are dusting off all of the old, discredited myths and buzzwords: "big labor," "out-of-touch," "union bosses." At their direction, House Republican Conference Chairman John Boehner (R-Ohio) has issued a series of convoluted "reports" on labor rehashing long-discredited allegations. Other GOP leaders sought out their colleagues for "dirt" on unions.

But some right-thinking Republicans understand the foolishness of this mindless union-bashing. Rep. Peter King (R-N.Y.) blasted his party's leaders for going "out of their way to appease wacko militias but needlessly antagonizing unions." As King said, "Who are they to complain about money? They get money from big business. Somehow we are making it evil when labor does it."

"Moronic" Media Coverage

It's one thing for partisans to make fraudulent charges in order to achieve political ends. It's quite another for respectable media outlets to participate in this charade.

Unfortunately, that is exactly what has happened. *Reader's Digest* published an article by a writer who has built a long career at that conservative publication penning stories attacking unions. Two *Providence Journal-Bulletin* reporters who let their pursuit of personal glory get in the way of the facts published similar pieces in their newspaper and a Washington magazine.

Each of these stories took the staunchest opponents of reform who have the most to lose from change, found them all, quoted many and doubted none. They just as uncritically dismissed those who applauded the courage of LIUNA and the government in jointly embracing reform and who endorsed the progress made over the past 16 months.

Among the facts these alleged journalists ignored, misreported or obscured are:

- The Cooperative Agreement which they call "toothless" is anything but as noted before, the government can take control of LIUNA any time it wants. The government is also free to indict any union officer it wants. The fact that it has done neither is evidence of our union's success.
- Two separate federal courts found no evidence to support allegations by two former union officers who left under a cloud that the Cooperative Agreement was entered in bad faith in fact, they found that LIUNA acted responsibly in instituting the reform process.
- LIUNA's reform of election laws met all of the terms the government wanted and represented no compromise of anyone's concept of union democracy.

Justice Department spokesman Carl Stern had the best word for all of this lunacy: he called the primary allegation in these news stories "moronic."[4]

A Voice for Working Families

One reason the Laborers' Union has been targeted by right-wingers and their media echo chamber is because we speak out strongly for our members and all working families in the political arena.

We make no apologies for our vigorous stance. Working families' health and safety, wage and hour protections, and workplace rights have been under assault in the 104th Congress. With all that is at stake, we would be derelict in our duties if we did not work to elect candidates who stand with working families, and to defeat those who stand with greedy employers.

Our union has been singled out by right-wingers for our support of President Clinton, as if there is something nefarious about that. We back the president because time and again, he has gone to bat for union members and working families and because a survey sent to every LIUNA member found that given a choice between Clinton, Dole and other potential contenders, a whopping 77 percent want the president reelected.

LIUNA also supports Republicans who do the right thing by working families. The sad reality is that they are too few and far between.

Innovation at Work

Another reason why our union has become a lightning rod is because it has become one of North America's most dynamic unions.

We have revitalized our organizing operation, turning it into a model for the labor movement. We are organizing workers wherever they need a strong voice, from poultry workers in North Carolina to hazardous waste cleanup workers in California. In one of the largest recent organizing victories in the labor movement, New York City asbestos workers voted overwhelmingly for LIUNA representation.

We are leading the fight for health and safety through our innovative labor-management fund that is pioneering new forms of protections in the workplace and new systems of health care delivery in the marketplace.

We are national leaders in educating and training workers. More than 40,000 men and women receive training every year at 68 LIUNA facilities throughout North America in 50 different curricula, ranging from literacy to state-of-the-art hazardous waste cleanup.

And we are developing new solutions to some of society's most intractable problems. For example, we are implementing a program to train public housing residents in construction skills, put them to work on building and renovations within the projects, and then give them all of the opportunities for a career in construction available to any LIUNA member.

We represent everyone from forest rangers in California to school bus drivers in Indiana; from cemetery workers in Washington, D.C., to sanitation workers in Miami; from airport maintenance workers in Alaska to tunnel builders in Massachusetts.

LIUNA members work in schools, colleges and universities; hospitals and health care clinics; museums and art galleries; and the courts, police and fire departments.

Our mission to advance their interests, improve their standard of living and enhance their quality of life is enormously strengthened by our reform campaign. Regardless of what the entrenched opponents of change and the intentionally ignorant have to say, we will continue to aggressively pursue this mission.

For the sake of our members and all working families we will succeed!

The General Executive Board of the Laborers' International Union of North America

1. Transcript of weekly Department of Justice media availibility, February 1, 1996, provided by Federal News Service.
2. Transcript of weekly Department of Justice media availibility, February 1, 1996, provided by Federal News Service.
3. Transcript of weekly Department of Justice media availibility, February 1, 1996, provided by Federal News Service.
4. *The Washington Monthly*, May 1996, page 12.

CLINTON
GORE 96

September 23, 1996

Warm greetings to the delegates and guests gathered for the 21st convention of the Laborers International.

You, your President, Arthur Coia, and the hundreds of thousands of workers and families you represent play a critical role as we work to rebuild our nation's economy. Your long-standing commitment to putting the American Dream within reach of working Americans -- by fighting for workplace safety, secure pensions, prevailing wage laws, and other worker protections -- has made our nation stronger.

We have made great progress together over the past 4 years, creating more than 10 million new jobs, achieving the lowest combined rate of unemployment and inflation in 27 years, and putting wages on the rise again. We've defeated Republican efforts to repeal the Davis-Bacon Act, gut OSHA and the NLRB, and legalize company unions.

But our work is far from complete. Even with the progress we've made, some of our families remain anxious about the future -- anxious about how they will afford medical care or college tuition for their children. We need to strengthen our efforts, not just to preserve what we've accomplished, but also to continue the fight for better jobs, stronger unions, higher wages, and justice for working men and women.

Thank you for your endorsement of my reelection, and also for your efforts to bring back a Congress that will vote to expand opportunities for working people and their families. As we work together in the coming months to create a better future for our people, I am grateful for your continuing commitment. Best wishes for a productive convention and many more years of success.

Bill Clinton

P.O. Box 19100 • Washington, D.C. 20036-9100 • voice: 202 · 331 · 1996 • tty: 202 · 530 · 2170 • fax: 202 · 496 · 4849

Paid for by the Clinton/Gore '96 General Committee, Inc.

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To: Wendy Byrd

9/23/96

From: Jennifer O'Connor

Fax 366 3703

Phone 366 5565

CLINTON
GORE

FAX COVER SHEET

TO: _____

FROM: **OFFICE OF THE CAMPAIGN MANAGER**
PETER S. KNIGHT
Tel. (202) 496-5070

PETER S. KNIGHT	**TINA FLOURNOY**	**LAURA SEGAL**
JEWELLE HAZEL	**ADAM KREISEL**	_____

FAX: _____

DATE: _____

PAGES: _____ **(INCLUDING COVER)**

COMMENTS: _____

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