

# FEC Fines PAC for Coercive Solicitations and Lack of Disclaimers

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The Federal Election Commission (FEC or Commission) recently announced a \$21,000 penalty against an Arizona Plumbers and Pipefitters union and its political action committee (PAC) for failing to include the requisite disclaimers in its solicitations. Importantly, while the matter involved the coercive conduct of union officials, the relevant legal analysis is just as applicable to corporations soliciting funds for their PACs. Matter Under Review (MUR) 7041.

In April 2016, one of the union's members filed a complaint with the FEC alleging that union officials were coercively soliciting political contributions. According to the complaint, for a number of years, the Arizona union had urged members to sign a payroll deduction check-off form authorizing PAC contributions from members' paychecks without including the necessary disclaimer language. For example, while the check-off form "suggested" a "voluntary" 0.75% contribution from the member's weekly pay, the solicitation did not actually explain that the 0.75% figure was merely a guideline, with the individual free to contribute more or less, nor did it note that an individual had the right to refuse to make a contribution altogether. (The Commission specifically rejected the idea that inclusion of the word "voluntary," by itself, was sufficient to provide notice of the right to contribute free from reprisal.)

In addition to finding fault with the check-off form, the FEC heavily scrutinized the union's decision to post a list of members who did not contribute to the PAC on a public bulletin board adjacent to another list entitled "EXPULSED MEMBERS." The Commission also noted that this non-contributor list was posted in the union hall where members were verbally solicited for contributions without the relevant solicitation disclaimers (e.g., that union members had the right to

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refuse to contribute without reprisal).

Apart from these two issues, which formed the basis of the \$21,000 penalty, the FEC's Office of General Counsel examined a third area of potential concern, i.e., whether the union used its newsletter to threaten job discrimination against PAC non-contributors. In a summer 2011 article, the union's business manager wrote that "the PAC contribution has changed to 0.75% and the new forms will reflect that change. Please be sure to complete a new form by July 1 or your standing as a member of the local may be jeopardized." The article continued: "It is obvious the majority of our local supports this increase and our ability to create any future success for you and your families through political action rests with each and every member participating by signing the PAC check-off." While concluding that the newsletter "suggests that political contributions are a condition of membership and threatens job discrimination against those who do not authorize payroll deductions," the Office of General Counsel concluded (among other things) that this activity occurred outside the statute of limitations and was therefore outside the Commission's jurisdiction.