# AN ASSESSMENT OF THE USE OF UNION DUES FOR POLITICAL PURPOSES: IS THE LAW BEING FOLLOWED OR VIOLATED?

## HEARING

BEFORE THE

SUBCOMMITTEE ON WORKFORCE PROTECTIONS

OF THE

COMMITTEE ON EDUCATION AND THE WORKFORCE

HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

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# HEARING ON AN ASSESSMENT OF THE USE OF UNION DUES FOR POLITICAL PURPOSES: IS THE LAW BEING FOLLOWED OR VIOLATED?

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**Thursday, June 20, 2002**

Subcommittee on Workforce Protections

Committee on Education and the Workforce

U.S. House of Representatives

Washington, D.C.

The Subcommittee met, pursuant to notice, at 10:25 a.m., in Room 2175, Rayburn House Office Building, Hon. Charlie Norwood, Chairman of the Subcommittee, presiding.

Present: Representatives Norwood, Biggert, Goodlatte, Culbertson, Owens, Kucinich, Mink, Woolsey, Sanchez, and Solis.

Staff present: Stephen Settle, Professional Staff Member; Travis McCoy, Legislative Assistant; Dave Thomas, Legislative Assistant; Ed Gilroy, Director of Workforce Policy; Dave Schnittger, Communications Director; Kevin Smith, Senior Communications Counselor; Heather Valentine, Press Secretary; Patrick Lyden, Professional Staff Member; and, Deborah L. Samantar, Committee Clerk/Intern Coordinator.

Peter Rutledge, Minority Senior Legislative Associate/Labor; Ann Owens, Minority Clerk; and Dan Rawlins, Minority Staff Assistant/Labor.

**Chairman Norwood**. A quorum being present, the Subcommittee on Workforce Protections will come to order. Good morning to one and all. Thank you for being here.

In general, the Subcommittee on Workforce Protections has oversight jurisdiction for compulsory union dues. We are assembled today under that oversight authority.

So that we can get to our witnesses, we have agreed to limit oral opening statements to the Chairman and Ranking Minority Member of the Subcommittee. With that, I ask unanimous consent that the record remain open 14 days to allow Members to insert extraneous materials into the official hearing record. Without objection, so ordered.

## *OPENING STATEMENT OF CHAIRMAN CHARLIE NORWOOD, SUBCOMMITTEE ON WORKFORCE PROTECTIONS, COMMITTEE ON EDUCATION AND THE WORKFORCE*

Today's hearing, which is titled, “An Assessment of the Use of Union Dues for Political Purposes: Is the Law Being Followed or Violated?” is what our hearing is about and that is the subject to which I hope we will all confine ourselves.

The hearing continues the efforts of the Subcommittee on Workforce Protections to determine how unions are spending the dues that workers are compelled to pay them under union security agreements. Today's hearing will focus on the use of union dues for political purposes, and concentrate on the question of whether the law is being followed or violated.

Now to my mind this is a serious issue. Under the First Amendment of the Constitution of the United States, citizens of this country cannot be forced to contribute to causes which violate their religious beliefs or which they disagree with for other reasons. I continue to be frustrated in these hearings by the failure of unions to honor these basic American principles. Today we will hear from two more hardworking Americans who have not had their rights respected under the law.

The use of union dues for political purposes is also an important issue because it affects the integrity of our electoral process. Campaign financing has been a major issue in this Congress. We have passed the McCain-Feingold bill. But campaign finance laws are useless if they are not enforced. We have a myriad of laws that restrict what unions can do politically with dues money.

Today we will hear from an active union member about activities he has seen that indicate that his Local is not following these legal restrictions and that unions have been making illegal contributions to political campaigns. We will also hear from two witnesses who will detail why they believe the nation's largest union, the National Education Association, has not complied with the laws that govern it. We will also hear from the general counsel of the National Education Association, whom I assume will tell us that the NEA is in compliance with the law, thus the

purpose of this hearing.

The Subcommittee is composed of diverse individuals who hold very different views on the issues that come before the Subcommittee. Despite our differences, we do have one thing in common. That is our oath of office to uphold the Constitution and the laws of the land. Now, we may honestly disagree on what our laws should be, but I trust and believe that we all believe our laws should be enforced.

What frustrates me most about the issue before us is the lack of law enforcement in this area. It seems to me that in Washington we often forget about the ordinary worker and his or her individual rights. This is especially true when it comes to their rights with regard to unions. In 1959, the Congress passed the Landrum-Griffin Act. During the 40 years since its passage, administrations of both parties have basically failed to enforce this Act.

It seems that administration after administration has acted as if Congress had its fingers crossed when it passed the Landrum-Griffin Act, and that Congress did not really mean it when it passed laws making unions legally accountable to their members; they were just kidding.

This lax, or non-existent enforcement of the laws governing unions has created an atmosphere similar to what existed during prohibition. During that infamous era, speakeasies operated openly and were run by organized crime, which became a powerful force in our society because of the government's refusal to enforce the law.

Today, according to Steve Greenhouse, the labor reporter for the New York Times, unions have been hit by a “wave of corruption.” We all know that the largest union in the AFL-CIO, the Teamsters Union, was subjected to a money-laundering scheme that involved the AFL-CIO and its secretary-treasurer, Richard Trumka. Recently, we have found out that members of the Executive Council of the AFL-CIO, who also served as directors of Ullico, enriched themselves to the tune of over $6 million through insider stock profits at the expense of union members and pensioners.

Ours is a country of laws, and not one of privileged special interests for people that are above the law. I will continue to hold these hearings until the Federal Government starts enforcing the laws and the unions start obeying them as a matter of course.

With that said, I'd like to turn to my distinguished colleague from New York, Mr. Owens, for his opening statement.

WRITTEN OPENING STATEMENT OF CHAIRMAN CHARLIE NORWOOD, SUBCOMMITTEE ON WORKFORCE PROTECTIONS, COMMITTEE ON EDUCATION AND THE WORKFORCE – SEE APPENDIX A

## *OPENING STATEMENT OF RANKING MEMBER MAJOR OWENS, SUBCOMMITEE ON WORKFORCE PROTECTIONS, COMMITTEE ON EDUCATION AND THE WORKFORCE*

Thank you, Mr. Chairman. I have only a few points I want to make about today's hearing.

First, more than half of today's witnesses are here to talk about what kinds of conditions should be placed on the use of dues by unions representing state and local employees.

The Federal Government does nothing to protect the rights of state and local workers to form and join unions, or to engage in collective bargaining. To the extent that state and local workers have such rights, it is because they have been established and protected by state legislatures. Yet, today we are going to hear how it is vital for the Federal Government to step in to regulate how these organizations function. However, if we are talking about federally protecting how state and local workers' union dues are used, we should also be talking about federally protecting the right of those workers to form and join unions in the first instance.

Second, as a citizen of New York City, I want to take this opportunity to express my personal respect and appreciation for the remarkable efforts that SEIU Local 32BJ has undertaken in the aftermath of the tragedy of September 11th. Twenty-four members of Local 32BJ perished in the attack on the World Trade Center, and more than 1,000 members lost their jobs because the buildings they worked in were damaged or destroyed. However, because of the efforts of the union, in partnership with employers, the hardships resulting from the attack have been shared and the damage that individual families would have otherwise faced has been significantly mitigated. It is a very impressive accomplishment, one that would not have been possible but for the efforts of the union.

By contrast with the efforts of Local 32BJ, even though normal unemployment benefits only last six months, we must remember that the Congress failed to act to extend unemployment benefits until the recession was more than nine months old. The Congress has done nothing to preserve health benefits, or to provide for early retirement, or to create new jobs for the workers impacted by September 11th. We've spent billions of dollars bailing out industries like the airline industry, but we've spent very little, nothing, on health care benefits for workers.

Finally, let me note that this is the fourth time, the fourth time that this Subcommittee has held a hearing on a subject for which it has really no legislative jurisdiction.

The purpose of this hearing is to attempt to embarrass the union movement. The purpose of this hearing has nothing to do with the extent to which unions are complying with the law; rather, the intent is to try to make it look improper for unions to be politically active.

I could ask for equal time to talk about corporations, and the fact that right now all the newspapers have articles about how we're being inundated on Capitol Hill by corporations, especially the pharmaceutical industry and the financial industry, attempting to prevent us from making laws to hold in check the kinds of things that happened at Enron.

Why aren't we trying to protect the ordinary people who hold shares, or shareholders of corporations? Why are we not interested in the fact that large numbers of them have already lost large amounts of money and will continue to lose large amounts of money because of the behavior, the political behavior, of the corporate world.

However, a union that is not involved in politics cannot represent its members effectively. Local 32BJ is a good example. Local 32BJ workers have a strong interest in living wage legislation, in having a right of first hire when building maintenance contracts change hands, and in the amount of paperwork requirements that unions must meet. Since their terms and conditions of employment are politically determined, teachers also necessarily should have an even stronger interest in politics. The contention that it is somehow criminal or wrong for unions to be politically active is ludicrous.

The facts of this hearing prove the need for union political involvement. For example, we have not raised the minimum wage in this country since 1996. A minimum wage worker, who works 40 hours a week, 52 weeks a year, earns only $10,700 a year. A full-time minimum wage worker earns $3,400 below the poverty line for a family of three, and does not even earn enough to maintain a two-person family above the poverty threshold. The current minimum wage does not provide a worker enough income to obtain affordable housing anywhere in the country. Yet, while this Subcommittee has actual legislative jurisdiction for the minimum wage, we have yet to hold a single hearing in this Congress on that issue.

If unions were more politically involved, this Subcommittee might be addressing real issues to improve the quality of life for workers. We look forward to more involvement, to guarantee justice for the workers of America.

**Chairman Norwood**. Thank you very much, Mr. Owens. I guess it should be incumbent upon me as Chairman of this Subcommittee to tell you what this hearing's purpose really is, since it was our hearing and we thought it up and we wanted to have it. It is about protecting workers' rights. It is about workers, whether they're unionized or not. It is about getting people to follow the law. I don't think that's a waste of time for any Committee of Congress performing its jurisdictional obligation to try to get people to enforce the law.

As I said in my opening statement, this hearing today focuses on two case studies. Now, you don't have to believe anybody if you don't want to. We have to come to some conclusions, and we're hearing from real people. They're Americans. They know what is actually happening to them.

Accordingly, our panelists are individuals with personal experience relevant to the analysis that we have before us today according to our Constitutional obligation to protect workers' rights. The witnesses are individuals who have devoted a significant amount of time to research the subject matter, which they're going to discuss. Now, I'm not telling you to believe them, but I'm telling you they need to be heard by Members of Congress so we can figure out what's going on.

We are indeed fortunate to have with us individuals with this type of understanding, and I welcome each and every one of you, and express my gratitude for your taking time to be here. I

will introduce our witnesses this morning in order of their delivery of testimony.

First, we have Ms. Kathleen Klamut from Mogadore, Ohio. Ms. Klamut has a master's degree and education specialist degree in education and school psychology from Kent State University, and is employed as a part-time, school psychologist in the Ravenna City Schools.

You are an American citizen, aren't you?

**Ms. Klamut**. Yes.

**Chairman Norwood**. Good. We welcome you, and you do have rights in America.

Our second witness is Mr. Dennis Robey of Dayton, Ohio. Mr. Robey is a high school teacher. And you're an American citizen?

**Mr. Robey**. Yes.

**Chairman Norwood**. Good. We're delighted you're here.

Mr. Robey has been educating our children in Huber Heights City School District, just north of Dayton, Ohio, for some 24 years. Thank you for your service.

Our third witness is Ms. Francis Martinez, from New York, who was a maintenance worker at the World Trade Center and is here today representing the Service Employees International Union, Local 32BJ. I think all of us would congratulate your Local for the work that you've done and the great things you've done coming together and taking care of one another. That's admirable and appreciated, I think, by us all.

Our fourth witness is Mr. Dominick Bentivegna from Brooklyn, New York. Mr. Bentivegna, until very recently, was employed as a union official with the Service Employee International Union, Local 32BJ, and we certainly welcome you here.

Our fifth witness is Mr. Bob Williams, who serves as President of the Evergreen Freedom Foundation, located in Olympia, Washington. We understand that Mr. Williams was formally associated with the General Accounting Office right here in Washington, D.C. We are happy to have you. Thank you.

Next we have Mr. Robert H. Chanin joining us today. Mr. Chanin is currently General Counsel for the National Education Association (NEA). We thank you for your time.

Finally, Mark Levin, who currently serves as the President of Landmark Legal Foundation located right here in Herndon, Virginia, occupies the last seat at the table. Mr. Levin, thank you for being here and spending time with us.

Please note that I could have spent an additional amount of time talking about the qualifications and experience of these witnesses. What I have heard about each of you leads me to

believe that this is the right group of people to bring together to conduct the type of oversight hearing that we're having today.

With that, I would like to gently remind each of our panelists that they have been invited to speak for approximately five minutes. At the center of the table, you will see a light system that will assist in timing this presentation. When the yellow light comes on, that means you have one minute remaining, and when the red light comes on, that means your time has expired, and we ask that you conclude in timely manner. It's very hard for me to cut you off because of the efforts that you've made to come and share your testimony with us today. Lastly, each of the witnesses should be aware that we ask each panel member to make their presentation in the order of my introduction, and we will withhold all questions until each of the panelists have had time to make their statement. Obviously, your written statement is longer, which is available to all Members of the Subcommittee.

With that I'd like to start with Ms. Klamut.

## *STATEMENT OF KATHLEEN KLAMUT, MOGADORE, OH*

Good morning, Chairman Norwood and Members of the Committee.

I'm a school psychologist employed by the Ravenna City Schools in Ohio. Because I work in an agency shop state, I can be forced to subsidize the union and all of its affiliates through a forced unionism provision in the collective bargaining agreement between the school and the union. Ohio school districts are represented in collective bargaining by local union affiliates of the Ohio Education Association, the OEA, which is a state affiliate of the National Education Association, the NEA.

The NEA's Resolution I-12 supports family planning, including the right to reproductive freedom, which are code words for abortion on demand. My faith as a Christian will not permit me to support an organization that promotes abortion. I therefore cannot support the union without violating my Christian beliefs. The union promotes other objectionable causes, as well, but their position on abortion is the most abhorrent to my faith and me.

In 1997, union officials with the OEA refused my request for religions accommodation. The union's proposed accommodation was to send my money to a union-controlled scholarship fund, but it was not a recognized charity. Otherwise, the union informed me that it would refuse to honor my status as a religious objector.

My faith prevents me from financially supporting the union and its affiliates. It does not matter which pocket this money goes into for the union, they all would support the union, and it, again, violates my Christian beliefs.

In my first employment situation, I was able to pay the equivalent of the union dues to the American Cancer Society, but I needed the assistance of the National Right to Work Legal

Foundation and an attorney to get a settlement through the EEOC.

The problem arose again when I changed employment in the fall of 2001 and began working for the Ravenna City School District. I was once again required to join the union or pay fees to another NEA affiliate, and the local was the Ravenna Education Association, or the REA.

In September of 2001, I notified the REA of my religious beliefs and the prior EEOC agreement. On February 18, 2002, I spoke with the president of the local union, Jacquelyne O'Connor, and again requested a religious accommodation. On February 26, 2002, I received a letter from the OEA representative, Beth Chandler-Marks, and she informed me that the OEA, the state affiliate, not the local affiliate, would be handling my request. Ms. Chandler-Marks wrote to me and informed me that the previously negotiated settlement with EEOC was not legally binding and would not be honored.

I followed up with letters to Ms. O'Connor, Ms. Chandler-Marks, and Christopher Lopez, who is the attorney for the OEA on March 20, 2002, in a further attempt to obtain a religious accommodation. One week later, the OEA representative, Ms. Chandler-Marks, sent a letter to my employer threatening legal action if my employer did not confiscate the union dues from my paycheck, in violation of my religious beliefs.

In a last attempt to obtain a religious accommodation, I again wrote a letter to the local president, Ms. O'Connor. I again explained my sincere Christian beliefs, wrote specific scriptures for my belief system, and asked for another accommodation. I sent copies to OEA personnel, Ms. Chandler-Marks, and Mr. Lopez. On May 7, 2002, Ms. O'Connor responded by letter, stating she could not in any way help me that it was between OEA, the state affiliate, and myself.

My employer reported to me via e-mail that the OEA representative, Ms. Chandler-Marks, was going to take legal action against me because of my request for religious accommodation. Her exact quote was they were going to come after me. I'm not sure what that means, but it sounds pretty menacing, when you're part-time personnel. Thereafter, I was sent information by the Ohio Education Association, which stated I had no choice except to join the union and surrender union dues.

I contacted the National Right to Work Legal Defense Foundation. An attorney with the National Right to Work Legal Foundation informed me that under Title 7 of the Civil Rights Act of 1964, I was allowed to observe my long-held religious beliefs and pay the equivalent of the union dues to a charity. The attorney helped me to file charges with EEOC, which are now pending. I now have another set of charges with the EEOC filed, and they're currently pending.

I feel that the union's plan was simply to wear me down. The union threatened to take my job away or confiscate the money from my paycheck. I needed to retain and work with an attorney to have what I believe is a simple religious accommodation request adhered to. I believe I should be allowed to do my job without this constant hassle. I'm sure many people feel as I do, but they simply either pay or quit.

I am told that the federal anti-discrimination law protects me from that forced subsidy of the union where forced subsidy violates my Christian beliefs, but transforming this legal right to a genuine discrimination-free work situation has been a real problem for me. I do not expect this to change as long as the union can choose whether it will obey the law and accede to the requirements of the law only if forced to after litigation or force me to risk my job by asserting my right to practice my true Christian beliefs.

It would be better if people simply did not have to pay the union if he or she did not choose to be represented by it.

Thank you very much.

WRITTEN STATEMENT OF KATHLEEN KLAMUT, MOGADORE, OH – SEE APPENDIX B

**Chairman Norwood**. Thank you very much.

Mr. Robey, you're next.

## *STATEMENT OF DENNIS ROBEY, DAYTON, OH*

Thank you, Chairman Norwood and Members of the Committee.

As Chairman Norwood said, I've been a teacher for 24 years in the Huber Heights City School District near Dayton, Ohio. For many years, I was a member of the local teachers' union as well as the Ohio Education Association and the NEA. During the 1993-1994 school year, I determined that I needed to look further into what the union stood for. That led me to read the NEA's resolutions published in the *NEA Today*, an NEA publication.

As I read each resolution, I found myself in disagreement, for religious reasons, with stands taken by the union. First, the 2000 NEA resolutions included seven different resolutions that in some way supported the abortion industry. The word “abortion” is never used, but terms such as “the right to reproductive freedom,” “birth control and family planning,” and “comprehensive school-based clinics” are used.

Second, the 2000 NEA resolutions included 14 different resolutions that supported the granting of special status to homosexuals, teaching about diversity of sexual orientation, or additional rights to domestic partners.

Third, the 2000 NEA resolutions included at least eight resolutions that in some way erode the rights of parents to instruct their children as they see fit. For example, one resolution provides for completely confidential counseling regarding abortion and sexuality, designed specifically to

shut parents out of the loop on these critical family issues.

Oddly, another NEA resolution calls for the immediate notification of parents of students that are suspected of drug or alcohol abuse, which makes good sense, but cannot be squared with the NEA's policy of secrecy when it comes to other important family issues.

The Bible clearly speaks to all three of these issues. In each case, the union is in opposition to God's word. I realized I could no longer support the union without violating my conscience. There was only one problem. The union negotiated a forced unionism in the labor agreement with the local school district. This meant that every teacher in the district had to either join the union or pay compulsory fees to the union. Everyone had to pay the fee the union calculated.

In 1994, I sent a letter requesting a religious accommodation, which I learned I was entitled to under federal law. From that day forward, I have encountered nothing but foot-dragging, procedural obstacles, delays, refusals to return my telephone calls, and stubborn resistance from the union. I have detailed this in my written testimony. My time is limited, so I cannot detail the numerous stall tactics that I am told are common to those who have a religious objection to the union.

Every year, I've had to request the religious accommodation and then wait. The whole time that I've waited, the union has had the use of my money to support causes that are contrary to my religion. Each year, the delay is greater and the hoops I've had to jump through are more complicated. For the past several years, each year I have had to provide detailed and comprehensive information and find documentary evidence to justify my faith. I've had to complete a form. Even though it takes over a year for the union to respond to my request for religious accommodation, I've had to complete the form within 17 days or forfeit my right to work with free conscience. I must provide, among other things, specific religious beliefs, doctrines that support my request for an accommodation, along with documentary evidence. I had to provide what specific local district OEA or NEA policies, procedures, and/or resolutions from which I sought accommodation, along with documentary evidence. I had to provide a description of how the specified educational association's policies, et cetera, conflict with my specific religious beliefs. And, I had to have a signature from my pastor or other religious official on this form.

All these years, I have faithfully objected, jumped through all the union's hoops, and paid the money that ultimately went to charity. I have also pursued the legal channels to try to protect my rights. It has not been easy, and it has been a distraction from my work, which is to teach students, and my family life, as well. Public school teachers should not be forced to support unions where doing so violates their conscience.

Thank you for allowing me to share this experience.

WRITTEN STATEMENT OF DENNIS ROBEY, DAYTON, OH – SEE APPENDIX C

**Chairman Norwood**. Thank you, Mr. Robey.

Ms. Martinez.

## *STATEMENT OF FRANCIS MARTINEZ, MEMBER, REPRESENTING THE SERVICE EMPLOYEES INTERNATIONAL UNION (SEIU) LOCAL 32BJ, NEW YORK, NY*

Chairman Norwood and Committee Members, good morning. I would like to extend a special greeting to my friend from Brooklyn, a good friend of the union before and after 9/11, Congressman Owens.

My name is Francis Martinez. I am honored to be here to talk about my union, SEIU Local 32BJ. I'm a maintenance worker from the World Trade Center. I worked there for five years. My union represents 70,000 residential and commercial building service workers in New York, New Jersey, and Connecticut. They work as office cleaners, window cleaners, superintendents, janitors, security guards, and handymen. We come from all over the world. We speak many languages. Many members are new immigrants who have come to this country in search of a better life for their families.

Like all unions, 32BJ works hard to build unity in our industry and get the best wages and benefits. Those contracts would not be possible without hard work at many levels, including being involved in state and federal politics, which is why I'm here today. Our union's political activities are necessary. If we are not involved in politics, how will we enjoy the American dream of building a better life?

We may be invisible at work. Janitors are invisible to the building tenants. We clean their toilets, empty their wastebaskets, but go unnoticed. We will not be invisible in the American political process. We support candidates who will protect workers on the job, help protect our jobs and our neighborhoods.

My union is working to pass two major bills; the Displaced Worker Protection Act and the Living Wage Bill. We also support candidates who fight for better schools, more affordable housing, immigration reform, and other important issues for workers and their families. My union was active in last fall's election. We endorsed and worked for candidates. Some won, some lost. We encouraged our union members and their families to register and vote, and they did.

I'd like to show you a t-shirt that volunteers wore at that campaign, and it says, “Our City, Our Future.” That is the feeling of our members. We know we need to be involved in politics. I am very proud of our efforts, and we will achieve together.

On 9/11, my union lost 24 friends and union members in the attack on the World Trade Center. I was not at work on the 107th floor on the observation deck in the World Trade Center

that day. If I had been there, I probably wouldn't be here. But I am here, sharing with you the pride that the union gave us with their help.

More than 1,000 members, including me, lost their jobs after 9/11. My union leadership helped us, and they did not wait for Congress. They immediately assisted families of the dead and those who lost our jobs. My union negotiated an agreement with our employers and the real estate industry. We got additional unemployment benefits. Our health benefits were continued. This meant that, between New York State unemployment and the assistance provided by my union, our employers, we received our take-home pay and our health benefits. This was not the case with most workers who lost their jobs on 9/11.

My union also helped us get all back to work by creating an early retirement program. This allowed older workers to retire and let us go to work in other buildings, sometimes for other employers. The goal was to get everybody back to work, and that is what the union did.

Most importantly, my union took every opportunity to call attention to conditions of low-paid workers who lost their jobs because of the attack on our city. We created a temporary assistance center to help World Trade Center victims, and I worked side-by-side with the Red Cross in our union hall, helping immigrant workers, whether they were union members or not.

We, the janitors, window washers, private security guards, help ourselves. I ask you, Members of the Congress, what did Congress do to help working people like me? Did Congress help unemployed workers pay for their health benefits? Did Congress increase weekly unemployment benefits? What did you do for low-wage workers?

This is why we need to be together, to be heard. Individually, you can ignore us, but as a union, you cannot, we cannot be ignored. Together, we give small amounts of money so we can participate in politics through our union. I pay monthly union dues and contribute voluntarily to our political education fund, COPE. My International union, SEIU, represents 1.5 million workers, and that many working people have as much right to engage in politics as corporations and wealthy Americans. We don't write big individual checks, but all our money together cannot be ignored, and this is what this hearing is really about. For the record, my union's involvement in local, state, and federal politics is democratic, and becoming more politically involved is a good thing for our union.

In February of this year, I testified before a congressional delegation on the needs of displaced workers. The AFL-CIO and my union organized this hearing. That testimony is an example of how the union gets their members' message delivered to our elected leaders, just like today.

Yes, my union uses dues money to run political programs. The union money spent for political outreach to our members was approved by the executive board and reported to the entire union membership in our magazine. I have given a copy to each one of you.

Because of my membership, I am here today representing my union. I am proud to participate in politics, not just as a member, but also as a citizen. As an individual and as a union

member, we will continue to speak. We will be heard.

Thank you for your time. I am proud to be here and be with my union.

WRITTEN STATEMENT OF FRANCIS MARTINEZ, REPRESENTING THE SERVICE EMPLOYEES INTERNATIONAL UNION (SEIU) LOCAL 32BJ, NEW YORK, NY – SEE APPENDIX D

**Chairman Norwood**. Thank you, Ms. Martinez, for your testimony.

Mr. Bentivegna.

## *STATEMENT OF DOMINICK BENTIVEGNA, ELECTED ASSISTANT SECRETARY, SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 32BJ, ACCOMPANIED BY PAUL PAMIAS, SHOP STEWARD, LOCAL 32BJ NEW YORK, NY*

Good morning, Congressman Norwood and Committee Members. I would like to express my thanks for the invitation to speak today on such an important issue.

My name is Dominick Bentivegna, and I am an elected Assistant Secretary and a proud member of Local 32BJ for 15 years. The first 12 years I was a doorman. The last three years I was on staff at Local 32BJ headquarters, located in New York City. I first worked as an organizer, and was promoted to assistant supervisor and then to supervisor, where I was responsible for 6,500 members. Recently, I was fired from that position because of my announced candidacy for Local 32BJ President.

I strongly believe in union democracy and a non-partisan, member-driven political program so much so that I continue to contribute to COPE, the Committee on Political Education. Unfortunately, in our local union, this is not the case. For example, at an executive board meeting in June 2001, our president, Mike Fishman, told us we were going to borrow two payments of $300,000 each from our general treasury, which is funded by members' dues. This money was to go to the COPE fund and then be distributed to the Green campaign, as well as other campaigns.

Some executive board members, as well as myself, questioned the legality of this arrangement. We were assured by Larry Engelstein, who holds the titles of General Counsel and Chief of Staff, that this was legal. Mike Fishman and Larry Engelstein explained we would pay back this loan from the general treasury with next year's incoming COPE money. I regret not questioning this further. I knew there was a good chance that we would not be able to collect $600,000 from the members as voluntary COPE contributions.

In November 2001, the Manhattan district attorney issued subpoenas demanding documents relating to the Mark Green and other campaigns. A letter sent to the district attorney's office by Paul Pamias, a Shop Steward with Local 32BJ, who has accompanied me today, prompted this investigation.

The day after the subpoenas were issued, Larry Engelstein and Mike Fishman gathered the staff and downplayed the significance of the event. At a subsequent officers' meeting, I asked Mike Fishman about the "loan." He then amazingly explained that there never was a loan; it was not a "reallocation of the budget." At the next joint executive board meeting, Neil Scotti, a rank and file board member, insisted that Mr. Fishman explain how our political money was being spent. I found his answer vague, but here it is: "Money comes from the members into the COPE fund as hard money. We then send it to our international union in Washington, where they take their cut. It is then sent back down to our treasury to be used as soft money." Mike Fishman and Larry Engelstein may say this is legal, but the fact that the membership knows nothing of this and did not vote on it is unacceptable.

Maybe the most offensive aspect of all this was the abuse of the union staff from many departments. The staff was forced to take personal days and vacation days to campaign for Mark Green. If they had no days left, they were forced to borrow against next year's.

The staff, whose salaries are paid for by the members' dues, was responsible for recruiting rank and file members and were told they had to reach a quota. They were also responsible for leafleting subway stations and phone banking during hours that should have been dedicated to serving the members. Ironically, the staff that worked so hard on these campaigns were denied their right to physically vote and told to fill out absentee ballots.

It has become very clear to me that we have a long uphill battle to improve the democratic rights of the rank and file. We need a Labor-Management Reporting and Disclosure Act with teeth and an Office of Labor-Management Standards with greater investigative powers.

I close by thanking the many Local 32BJ members who continue to support me in spite of my termination. My loyalty has always been to the rank and file members of Local 32BJ and the member-driven labor movement, and I look forward to serving them again in the future.

Thanks.

WRITTEN STATEMENT OF DOMINICK BENTIVEGNA, ELECTED ASSISTANT SECRETARY, SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 32BJ, ACCOMPANIED BY PAUL PAMIAS, SHOP STEWARD, LOCAL 32BJ NEW YORK, NY – SEE APPENDIX E

**Chairman Norwood**. Just so you know, I think this hearing is also about the rank and file member, the guy that gets up, and the woman that gets up every day and goes to work. It's about making sure those that control the rank and file member follow the law. That's where our interest is, and that's the purpose of today's hearing.

Mr. Williams.

## *STATEMENT OF BOB WILLIAMS, PRESIDENT, EVERGREEN FREEDOM FOUNDATION, OLYMPIA, WA*

Chairman Norwood and distinguished Members of the Committee, I am Bob Williams, the President of the Evergreen Freedom Foundation, a state-based research group in Washington State. Prior to becoming President of the foundation, I served as a Certified Public Accountant, a government auditor for the General Accounting Office, and spent 10 years in the state legislature.

Seven years ago, teachers came to our door pleading for help. They wanted the union to stop taking money from their paychecks without their consent to use for politics. Seven years later, we have more than 60,000 internal union documents. Our investigation has led to two lawsuits filed against the teachers' union by our Democrat state attorney general, a Superior Court ruling of intentional and willful violation of teachers' rights, and more than $1 million in penalties against the union, including the repayment to teachers of more than $0.5 million. After all of this, we say: What the NEA does to its members may be the last institutionalized civil rights violation remaining in our nation.

What we have uncovered substantiates the fact that the NEA and its state affiliates are the most powerful political force in America today. Attachments 2 and 3 of the handout I have provided detail the information. They have operations that most political parties would envy: voter identification programs, voter lists, get-out-the-vote efforts, organized right down to the school building level. They build strategic political plans and sit as a majority vote on decision-making Committees for numerous ballot measures and candidates. They bankroll levy and initiative campaigns. They organize to elect or to defeat candidates at nearly every level of public office.

I have documentary evidence to substantiate what I just said, but some of this is subject to a protective order. To fully grasp the depth of what is in Attachments 2 and 3, you must subpoena the documents and records we have.

Now, there would be nothing inherently wrong with what I'm saying except for one thing: This is paid with mandatory union dues, and sizeable deductions from teachers' paychecks. Now, union officials say that most of these withdrawals are made for collective bargaining and related purposes. This is simply not true.

I want to make it clear, we do not object to the NEA being involved in politics. As long as education policy emanates from Congress and our state houses, the union must have a voice and presence, but straightforward politicking should come from voluntary contributions. In Washington

State 91 percent of the teachers refuse to support the union's political action Committee, so the union ignores the law and takes money out of general dues and uses it for politics. You might think there are legal protections in place to protect the workers. There are not.

For each of the 75,396 members of the Washington Education Association, $683 is deducted in local, regional, state, and national dues each year. We estimate, after going through 60,000 union documents, that at most 20 percent is used for traditional union functions such as collective bargaining, maintenance of the contract, and grievances. That means one union in one state has $80 million an election cycle to use for other things, like politics. That is 10 times the combined budget of the Republican and Democrat political parties in our state, and they receive their donations from voluntary sources, whereas the teachers' union is using mandatory union dues.

Of the $683 deducted from teachers' dues, the NEA takes $126 per member per year. Yet, under oath at an arbitration hearing last year, the NEA representative said he could not identify a single direct service that teachers in Washington State receive from the union. My examination of the NEA books indicates that over 99 percent of what the NEA does is not direct services to members. In November 2000, Robert Chanin, General Counsel of the NEA, said and I quote: "So you ask me how I can possibly separate NEA's collective bargaining from politics? You just can't. It's all politics."

Okay, so it's all politics. Then should teachers or any other union employee be forced to support the political choices and decisions made by the union? Don't teachers have a right to their own political voice? Not in practice, if they belong to the NEA, which brings us to the next point: What are the teachers' options? You just heard about the difficulties for religious objectors. The same thing applies to NEA members in our state. If teachers don't want to agree, their option is to become an agency-fee payer but lose the right to run for office, the right to vote, teacher liability insurance, and still pay the same amount in dues as if they were members, unless they object. Then you attend an arbitration hearing, which is little more than a kangaroo court; I could go on and on regarding that detail.

But the key thing is why does this occur? It occurs because union officials want political power, and they have nothing to lose and everything to gain. There is little chance of the union being caught, and there is even a smaller chance that when they are caught, they'll be prosecuted, and a very remote chance that if they are convicted they'll have to pay a fine. In the case of Washington State, where the judge said it was deliberate and he doubled the fine, the union officials didn't pay the fine. They merely took it out of the paychecks of the hard-working teachers in Washington State. Fines are just considered a cost of doing business for the arrogant union officials.

It's not hard to buy political power when you have direct access to the paychecks of 2.6 million hard-working American citizens, and have no scruples about helping yourself to their money with the perfect alibi: "It's for the children."

The response of our teachers' union has been chilling. They've resorted to name calling, misrepresented teachers to colleagues, sent them threatening letters, sued them, sued us, sued the state attorney general three times, taken out full-page colored ads in the newspapers all over the

state harassing our foundation, sent out a directive to their staff to research our staff, our families, and our friends. Our experience compels us to ask Congress to consider the five points we have in my testimony.

Robert Chanin, the NEA General Counsel, once said in the U.S. District Court: "It is well-recognized that if you take away the mechanism of payroll deduction, you won't collect a penny from these people, and it's nothing to do with voluntary or involuntary. I think it has to do with the nature of the beast, and the beasts who are our teachers simply don't come up with the money, regardless of the purpose." Well, he's entitled to his opinion, but as Members of Congress, we ask you to protect the working men and women in this country.

Thank you.

WRITTEN STATEMENT OF BOB WILLIAMS, PRESIDENT, EVERGREEN FREEDOM FOUNDATION, OLYMPIA, WA – SEE APPENDIX F

**Chairman Norwood**. Thank you, Mr. Williams.

Mr. Chanin, it's your turn.

## *STATEMENT OF ROBERT H. CHANIN, GENERAL COUNSEL, NATIONAL EDUCATION ASSOCIATION, WASHINGTON, D.C.*

Chairman Norwood, Members of the Subcommittee my name is Bob Chanin. I'm General Counsel of the National Education Association. Inasmuch as the activities of NEA and its affiliates appear to be the focus of today's hearing, I particularly appreciate the opportunity to appear here and set the record straight, and since there is so much to set straight, forgive me if I speak rather quickly.

The Chairman referred to NEA in his opening comment as the largest union in the United States. That is true. I would add, just for the record, it also is the most open and democratically run union in the country, as well.

Let me also clarify some terminology that's been thrown around here today. The topic of today's hearing is, "An Assessment of the Use of Union Dues for Political Purposes," but the accusations, certainly, that the Evergreen Freedom Foundation and the Right to Work Committee have made against NEA have nothing to do with dues.

Dues are the monies that are paid to us by the more than 2.5 million employees who voluntarily choose to join our organization. The accusations have to deal more with NEA's use of

agency fees, which are paid to us by those employees who exercise their right not to join our organization, but pay a per capita amount to offset the benefits that they receive from union representation. To quote the United States Supreme Court, the purpose of the agency fee is "to counteract the incentive of employees that might otherwise choose to become free riders."

Having pointed out the basic distinction between dues and agency fees let me emphasize one thing they have in common. Not a penny of our dues or our agency fees is used to make political contributions to candidates or to make soft money contributions to political parties.

We use only money from our PAC, the NEA Fund for Children in Education, and the money in that fund comes from our members who voluntarily choose to pay the money to the fund over and above whatever obligation they may have to give us as a dues payment. In my written testimony, I outline the comprehensive procedure that NEA has in place in order to protect the rights of agency fee payers.

I would only emphasize that when you consider the scope of the NEA's activities, the number of state laws we must comply with, the volume of people we deal with, it is truly amazing that the number of objections we have and the number of problems we encounter is so small.

We have at the table two disgruntled agency fee payers, and I stand them against the thousands and thousands and thousands of agency fee payers who are satisfied throughout this country with the treatment that they receive from NEA and its affiliates.

In the limited time that I have remaining, let me address the accusations that have been made against NEA by the organizations that are represented here today. Because those accusations are now pending in litigation, I will not attempt to make my case in this political forum. I will simply offer some observations to put those accusations into context.

Let me begin with the Landmark Legal Foundation. In June 2000, LLF filed complaints against NEA with the Internal Revenue Service and the Federal Election Commission. The substance of those widely publicized complaints were that NEA used dues and agency fees to pay for political activity, in violation of the Federal Election Campaign Act, and failed to accurately report them to the IRS. We consider them to be totally without merit.

We certainly do not deny that NEA uses its dues to engage in non-electoral political activity, but the activities that we engage in are explicitly allowed to us under the Federal Election Campaign Act, and we report to every agency what we are required to report; no more and no less.

We find the charge that was filed with the IRS to be particularly surprising, in light of the fact that it came upon the heels of an exhaustive IRS audit of NEA which had found no problems in the way in which we operate.

Apparently dismayed by the fact that neither the IRS nor the FEC took action against NEA, the Landmark Legal Foundation tried its hand in another agency this year, and filed a charge with the Department of Labor. The essence of that charge is that NEA failed to accurately report its political activities in the forms filed under the Landrum-Griffin Act. Now, there's a catch-22 to this

charge, because the Landmark Legal Foundation casts itself as the protector of the rights of our members. They contend that we don't provide our own members with enough information about our expenditures; and yet the major complaint we get from our members and our affiliates is to stop sending them so much of this stuff.

It's also a catch-22 because the basis for the IRS and the FEC charges are massive documentation that they have received, which they contend, we don't even produce, so there's some disconnect in how those charges fit together.

Let me turn now to the Evergreen Freedom Foundation. It's filed a lawsuit against NEA in Washington state court alleging that we have committed what can at best be described as a technical violation of a unique provision in a Washington State statute by expending a de minimis amount of agency fees for political activity without obtaining the required authorization. We intend to respond in the appropriate judicial forum, and will not address the complaint here.

Finally, and I will wrap up with this, there are agency fee payers you have heard today who, with the support of the Right to Work Committee, have filed charges with the EEOC alleging that NEA and one of its state affiliates have failed to properly accommodate their religious beliefs. Once again, this is pending litigation. We reserve the specifics of our defense for the proper forum.

I would simply note that it is exceedingly surprising to me to find the Right to Work Committee publicly saying that NEA fails to accommodate the right of religious objectors, and I have cited in my written statement a very nice testimonial given to me and NEA by the chief lawyer for the Right to Work Committee who handles their agency fee religious objector cases and is representing both of the people you heard today, thanking me personally and thanking NEA for doing so much to help properly resolve religious objector cases throughout the United States.

Thank you, Mr. Chairman.

## WRITTEN STATEMENT OF ROBERT H. CHANIN, GENERAL COUNSEL, NATIONAL EDUCATION ASSOCIATION, WASHINGTON, D.C. – SEE APPENDIX G

**Chairman Norwood**. Thank you, Mr. Chanin.

Mr. Levin, it's your turn.

## *STATEMENT OF MARK R. LEVIN, PRESIDENT, LANDMARK LEGAL FOUNDATION, HERNDON, VA*

Mr. Chairman and Committee Members let me depart a little bit from my written statement. We have massive documentation that the NEA is a tax "deadbeat". You don't have to take my word for it. I would ask that the exhibits that we have be entered into the record, so every Member of Congress who is seriously interested in this can look at it.

Now, we're happy that the NEA participates in politics. They're allowed to participate in politics. They tell their members they participate in politics, to the tune of millions and millions of dollars. But they don't tell the IRS and since 1994 on Line 81, which is where the unions are supposed to put it, they have put zero.

Now, if they want to use general revenue or agency fees or dues, members' confiscated payments, to pay for the administrative costs of their PAC, that's fine. They don't have to report that. To turn out their members to vote, that's fine, too. But that's not all they do. That's not all they do, and they know it.

First of all, as far as everything going through the PAC, that would be legal. That would be great. It's too bad it doesn't happen. Notice the date our complaint was filed; June 23, 2000. I don't know when their IRS audit ended. How could I possibly know? The IRS doesn't tell me. Their spokeswoman doesn't tell us. I don't know what years were covered. I don't know what documents the IRS looked at. And I bet you today that Mr. Chanin, audit or no audit, can't tell you to the penny how much political money they spend on election cycles. He can attack the groups here all he wants, but he doesn't have to answer to us.

Now, what is a political expenditure as defined under the Internal Revenue Code? Well, you-all wrote it. "A political expenditure is one intended to influence the selection, nomination, election, or appointment of anyone to a federal, state, or local public office, or office in a political organization, or the election of presidential or vice presidential electors. It doesn't matter whether the attempt succeeds." I'm quoting. "An expenditure includes a payment, a distribution, a loan,'' as the gentleman down there testified, "advance, deposit, gift of money, or anything of value. It also includes a contract, promise, or agreement to make an expenditure, whether or not legally enforceable."

All Section 501(c) organizations, unions are 501(c)(5)s, must file Form 1120 POL if their political expenditures and their net investment income both exceed $100 for the year. They haven't filed one of those forms since at least 1994, so they must not spend over $100 on political activity out of their general revenue to influence campaigns. That's what they're telling you

There have been rulings, such as Alaska Public Service Employees' Local 71 versus the Commissioner in the materials that I submitted for the record. They're not limited to money transactions. They include the cost of using in part or in whole any facilities, personnel, equipment, supplies, or automobiles. They must all be accounted for, direct and indirect, in kind. Even the time spent by an organization's employees directing volunteer campaign efforts or

appearing on behalf of candidates must be accounted for by the organization. They report zero.

This is from their handbook. They talk about the segregated PAC versus the general revenue. This will be in the materials submitted to the Committee. "The Association is ultimately responsible for all of its programs, including political action. In the minds of office-holders, candidates, and the public, it is the Association they're dealing with, not a separate and isolated political action Committee. In addition to integrating the structure of the political action Committee and the Association, programs should be integrated, too."

See, the point of the tax law is the PAC has to be segregated, and that's where the money is supposed to flow, and if you're going to spend money out of general revenues, you have to report it and pay income taxes on it. They don't report it, they don't pay income taxes on it, and they're deadbeats.

Now, if I am the most conscientious member of the National Education Association, and I want to know how much money my union has spent on political activity, I can't find out. Their IRS form says zero. The LM-2 forms at the Labor Department are so general as to be totally meaningless, and even there they are required to report the information in a particularized way so a union member can determine how the operations of the union are being undertaken.

So those forms are, in my view, in violation of the statute, and the whole purpose of the Landrum-Griffin Act is to democratize the union process. It was passed in the 1950s because the mob was controlling the unions, and as I recollect, the only Senator to vote against it, and I could be wrong about this, was Barry Goldwater. You know why? He said, "This is a joke. No one will ever enforce it."

My understanding is that over the years, they've been cutting the enforcement powers of that office, and the budget, and now we have a form. If anybody thinks these unions are going to volunteer information to their membership about their political expenditures, all they need to do is a little bit of research. They're not going to. Certainly NEA isn't going to.

My time is up. I appreciate it, sir. Thank you.

## WRITTEN STATEMENT OF MARK R. LEVIN, PRESIDENT, LANDMARK LEGAL FOUNDATION, HERNDON, VA – SEE APPENDIX H

**Chairman Norwood**. Thank you very much, Mr. Levin, and thanks to each of the witnesses for being here.

Obviously, it's difficult for this Subcommittee, because we hear conflicting testimonies, but it is a constitutional obligation of this Subcommittee to try to ferret it all out and understand what's going on.

Pursuant to our Committee rules, I will now begin our period of questioning. We will proceed in five-minute rounds, rotating between the majority and minority members. I'm going to begin where the two of you left off. Your statements contradict each other, and we have to try to make some sense out of that.

Now, I trust both of you are testifying before this Committee telling the truth as you know it. I'm going to try to ask a few questions, if I can, that will highlight where you differ, and perhaps from that we can understand.

Mr. Chanin, is it your testimony that all expenditures made by the NEA that are intended to influence elections are made from funds from your political action committee? Didn't I hear you say that?

**Mr. Chanin**. With one minor caveat, absolutely yes. The one caveat is this. The Federal Election Campaign Act allows us to communicate with our own members internally about electoral politics.

The only thing that dues are used for is to communicate with our own members in internal politics, and the other thing that the Federal Election Law allows us to do, is pay the administrative overhead costs of our PAC. No dues are used to make a contribution to any candidate for political office or to any political party.

**Chairman Norwood**. Now, let me make clear what I'm talking about. I'm not talking about just limiting myself to campaign contributions. I am including in my question expenditures for phone banks, leaflets, staff assigned to assist candidate campaigns. With that clarification in my question, is it still your testimony that NEA has not spent a penny on that type of expenditure?

**Mr. Chanin**. The answer is exactly the same, with the same qualification. Only for dealing with our own members.

**Chairman Norwood**. Ms. Martinez, do you pay your union any amount of money other than union dues?

**Ms. Martinez**. Union dues.

**Chairman Norwood**. You don't give them cash or a check for any other reason?

**Ms. Martinez**. No.

**Chairman Norwood**. Mr. Levin, on Page 2 of your testimony, you list half a dozen specific expenditures by the NEA, which cause conflict. One of you says “No, we don't,” and one of you says, “Yes, we do,” and you list them.

Can you tell me where you found the references for these expenditures?

**Mr. Levin**. They're from NEA budgets, financial statements, strategic focus plans, handbooks and other NEA materials?

**Chairman Norwood**. Did the NEA produce these documents or were the documents produced by their political action Committee?

**Mr. Levin**. No, these were produced by the Association and distributed to certain members.

**Chairman Norwood**. Okay. Now, Mr. Chanin, will you take a look at Page 2 of Mr. Levin's testimony?

**Mr. Chanin**. If you'll give it to me, I will, but I think I know what's on it.

**Mr. Levin**. Do you want a test, or do you want it?

**Mr. Chanin**. I'll take it. If I'm wrong, I'm sure you'll point it out to me.

**Chairman Norwood**. Now, is it still your contention in your testimony, that all these expenditures came from the NEA political action committee and not a penny came from a fund that contained union dues or fees?

**Mr. Chanin**. No, that is not my testimony. The things that are referenced on Mr. Levin's paper did come from NEA dues, but Mr. Levin has misconstrued what was done with that money because he has taken statements out of context.

As we have explained repeatedly, to both his organization and to the federal agencies that investigate us, we write our budget documents for the NEA and its people, and the NEA and its people use a kind of shorthand. We know what we're talking about when we write something.

When we talk about a strategic plan for getting someone elected that means money will be used to communicate with our members and with our affiliates as an allowable internal matter to help get those people elected. The fact that someone unfamiliar with our dialogue pulled something out, that's a problem.

**Chairman Norwood**. Did you notice on that page that there was over $10 million in expenditures?

**Mr. Chanin**. I assume there is, if that's what it says.

**Chairman Norwood**. Now, would you help us clarify this so we can all understand it, by providing this Subcommittee with the financial documents that would help us help you prove to us that these expenditures were paid by the NEA political action committee?

**Mr. Chanin**. The only expenditures that were paid by the political action committee were the contributions to candidates, political Committees, and political parties. We believe, and we will demonstrate to the appropriate agency, that all of these programs which dues monies were used for

are allowable under the Federal Election Campaign Act.

**Chairman Norwood**. Do you consider the Congress of the United States an appropriate person to respond to on this?

**Mr. Chanin**. Absolutely.

**Chairman Norwood**. Good. Then my question is would you furnish us with documentation to help prove to us that these expenditures were paid for by the NEA PAC?

**Mr. Chanin**. We will provide you with documentation to explain what these expenditures were used for.

**Chairman Norwood**. So the answer to my question is yes?

**Mr. Chanin**. The answer to your question is these were not expenditures by the PAC. We will explain to you what the money actually went for, rather than having you rely on a few out-of-context words.

**Chairman Norwood**. And you will show us, then, that they were actually paid for by the PAC, and you'll give us the documentation?

**Mr. Chanin**. No. We will give you the documentation to show you that they were paid out of dues and were appropriately paid out of dues, because those payments are lawful under federal law. We will give you the material that demonstrates that.

**Chairman Norwood**. Who gets to determine that?

**Mr. Chanin**. Ultimately, it will be the Federal Election Commission in the first instance, which we're quite confident will clear us; the IRS, with the complaint that's before that agency, we're quite confident it will clear us; and ultimately, it may be a court, which we're sure will also clear us.

**Chairman Norwood**. Some of the expenditures that are listed on Page 2 imply the expenditure of staff time for the planning meetings of the coordinated campaign with the Democratic Party for 1996. Can you tell us if the NEA PAC reimbursed the NEA for the staff time and travel of the staff that were involved in these meetings?

**Mr. Chanin**. To the extent that those meetings were allowable under the Federal Election Campaign Act to be used and done with union dues, there was no reimbursement. We do not believe any staff time was spent on activities we're not allowed to do with union dues under the Federal Election Campaign Act.

**Chairman Norwood**. My time is up, but, Mr. Levin, I'm coming directly back to you on this subject to hear your side of that, as soon as I get some more time.

With that, I yield to Mr. Owens.

**Mr. Owens**. I just want to clarify a few things that might have bypassed me in the speed at which the conversation was moving.

Mr. Levin, did you say you could not determine what was in the PAC, what funds were used by the NEA PAC versus NEA funds?

**Mr. Levin**. No, I didn't say that. No.

**Mr. Owens**. Do you get access to FEC reports?

**Mr. Levin**. If we want to, but I didn't say that.

**Mr. Owens**. Do the FEC reports tell you what the expenditures are related to?

**Mr. Levin**. My recollection is that the FEC reports tell you what an organization is spending in terms of contributions. I'm not here testifying, about contributions from the PAC, but I'm happy to discuss it.

**Mr. Owens**. What else do you want to know about the contributions?

**Mr. Levin**. No, to me the question we've presented is about hundreds of thousands and multi-millions of dollars not coming through the PAC, but coming through general revenue expenditures.

Mr. Chanin just testified that these were plucked out of their materials. Everything that is in my testimony and that I speak about today is in their materials. Mr. Chanin said that during his first go-around. They're right here, out of the NEA's budgets. So the question isn't the PAC. The question is the general revenue expenditures; and while they are permitted certain campaign activity under FEC, that has nothing to do with the IRS definition.

I read the IRS definition and the regulation, and the interpretation is exceedingly broad. So if you want to be a 501(c)(5), if you want to have tax-exempt monies, then you have to comply with the Internal Revenue Code, not just the federal election law.

**Mr. Owens**. There are reports required by labor law that they submit.

**Mr. Levin**. LM-2s.

**Mr. Owens**. And you've said that those reports are not clear to you?

**Mr. Levin**. Well, if anybody can show me tens of millions of dollars in political expenditures in those reports, they'll cease to be unclear to me. They're very broad.

**Mr. Owens**. Would you care to comment on that, Mr. Chanin?

**Mr. Chanin**. Yes, on both things.

What we're dealing with here are definitions of words. We engage in political activity. We lobby. We do issue work. We have to do that to represent our people.

When we write up a budget, we don't expand for people like Mr. Levin to understand what we're talking about. We use shorthand, and those shorthands do not include illegal payments to candidates.

As far as the IRS is concerned, the 990 form has a line that says, "Political Activity." When I fill out my income tax, I look at the word and I look at the regulations to know what they're talking about.

NEA does the same thing. We look at what they mean by "Political Activity," and we report on that line what we believe they are asking us to report. We believe that, within the definitions of the Internal Revenue Code, putting a zero on that line is perfectly appropriate.

As far as the Department of Labor and the LM-2 forms are concerned, with the LM-2s there's a little inconsistency in Mr. Levin's testimony, as well. First, he accuses us of not accurately filling out our LM-2 reports, and he also said the LM-2 reports are useless. Any union can get around it by simply giving broad categorizations, and I think he was implying the form should be changed. That may or may not be true, but as the forms now exist, we fill them out accurately under the categories that we are asked. There is no category on the LM-2 saying, "Political Activity." It says "Programs." It says "Overhead." It says "Administrative Costs." And we put our money where the form asks us to put it.

**Mr. Owens**. Thank you.

Ms. Martinez, you were asked a question quickly by the Chairman about paying dues. Did you pay any money other than dues? Do you want to clarify that? In your testimony, you say, "I pay monthly dues and I contribute voluntarily to our political education fund, COPE." Is that correct?

**Ms. Martinez**. It's taken out of my paycheck. I pay my dues and then I give to COPE, but it's done from my paycheck

**Mr. Owens**. Yes. That's a "checkoff." You don't have to do that unless you want to.

**Ms. Martinez**. I do that myself, voluntarily. I give to them.

**Mr. Owens**. I wanted to clarify that, because you made a statement clearly here: "I pay monthly dues and contribute voluntarily to our political education fund, COPE."

**Ms. Martinez**. Yes, I do.

**Mr. Owens**. Now, are you satisfied with the decisions made about your COPE fund? The membership has an opportunity to determine how that money is going to be spent?

**Ms. Martinez**. Yes.

**Mr. Owens**. They participate in decision making about candidates. Mark Green has been mentioned.

**Ms. Martinez**. Yes.

**Mr. Owens**. In the selection of a candidate like Mark Green, was the union membership involved in that selection?

**Ms. Martinez**. I was. Yes, we were involved in it. The union was involved in the selection of candidate Mark Green.

**Mr. Owens**. At one point you said that the entire membership voted on some of these selections. Is that correct?

**Ms. Martinez**. I don't understand what you're asking me.

**Mr. Owens**. What?

**Ms. Martinez**. I don't understand what you're asking me.

**Mr. Owens**. I think at one point in your testimony you said the entire membership voted on some of these decisions about which candidate you were going to support.

**Ms. Martinez**. Oh, members. Yes, we all voted. We went, registered, and volunteered, all of us, all our members got together.

**Mr. Owens**. Well, my time is up, but I just wanted to clarify the fact that you voluntarily pay into the political action fund.

**Ms. Martinez**. Yes, I do voluntarily pay.

**Chairman Norwood**. Mr. Culbertson, you're now recognized.

**Mr. Culbertson**. I'd like to direct, if I could, my questions to Mr. Chanin.

In reviewing the quotations which Mr. Levin has pulled directly off of the NEA's strategic plan and budget, I note the use of the word “support” throughout the description of these expenditures, which I understand are taken directly from your general revenue. I want to ask, first of all, do you know how much money the NEA has spent out of its general revenue to influence or support candidates for elections?

**Mr. Chanin**. Other than to educate and work with our own members in regard to education-favorable candidates, the answer is none.

NEA does not use general treasury money to support candidates for federal election. It only uses its PAC money, with the exceptions that the Federal Election Campaign Act allows us to do with dues.

**Mr. Culbertson**. And Mr. Chanin, you understand that you and all the witnesses here are bound by Title 18, Section 1001, which requires anyone who testifies to Congress to testify truthfully and honestly, and making a false statement to Congress is punishable by a year in jail. Do you understand that?

**Mr. Chanin**. I understand that, and regardless of that, I would still give you the same answers.

**Mr. Culbertson**. Okay. I note from the quotes that are taken from your strategic plan mentioned by Mr. Levin that, for example, $350,000, $386,000, $540,000 were used for, "the support of pro-public education candidates." You said you know what the meanings of the words are that you're using. Webster's Dictionary defines "support" as assisting or helping, arguing or voting for, upholding, defending.

The very language of the strategic plan that you have laid out for your 1998-2000 budget cycle indicates that clearly, you're using these funds that Mr. Levin has identified, in the support of candidates in an election process, and that fits precisely the common sense meaning of the IRS Code, which says that you are influencing the election of candidates in an election cycle.

**Mr. Chanin**. Anyone who believes that common sense is the touchstone for the IRS Code I believe should look a little deeper.

**Mr. Culbertson**. I'm not looking for a flip answer, sir. You're under oath here.

**Mr. Chanin**. Well, it's a serious answer.

**Mr. Culbertson**. No, sir, it's not. I want to hear a direct answer as to whether or not you understand the meaning of the word "support" and disagree with the common sense meaning.

**Mr. Chanin**. No. I understand the meaning of the word "support," and let me say flat out, NEA spends a great deal of money, dues money, to support federal candidates, but we consider support when we educate 2.7 million members and their families as to why they should vote for these people and why they should support those people, and why they, on their own time, should campaign for those people.

We spend hundreds of thousands of dollars in that education process. It is support. It is invaluable support, and we will continue to do it, because it's lawful.

**Mr. Culbertson**. Now, the methods by which you communicate with your members include radio, television, and advertising?

**Mr. Chanin**. No. No. Those are public media. We do not communicate with our members through public media. We communicate by the very things Mr. Levin has talked about; staff time, staff travel, all the things that he has flagged.

We fly people all over the country to meet with our members, to go to local affiliates, to attend meetings so that they can work with our members, quite lawfully, to help them support federal candidates.

**Mr. Culbertson**. And the term "support," then, you understand to mean to influence the election or defeat of particular candidates in election campaigns?

**Mr. Chanin**. We believe that getting 2.7 million people and their members to vote for a candidate will influence the outcome of an election, yes.

**Mr. Culbertson**. And the money you spend to communicate with those 2.7 million members doesn't reach anyone other than those members of the NEA exclusively?

**Mr. Chanin**. We do the best we can to limit it to them.

**Mr. Culbertson**. And you have no knowledge of any communication outside of the members of your union?

**Mr. Chanin**. The only time we get it is when Mr. Levin or someone else files a charge. We then investigate and we do our best to respond to the charge. It is certainly our plan not to go beyond our restricted class, which is our members and their families.

**Mr. Culbertson**. I have to tell you in the very brief time that I have remaining that your testimony here today has just reaffirmed my passionate belief and my pride in the State of Texas, and the fact that the State of Texas is a right to work state. I was a member of the state legislature for 14 years, and with the help of Governor Bush, we successfully kept the NEA from forcing unionization of Texas teachers. It has even strengthened my resolve to make sure that my colleagues in Texas prevent the NEA from forcing the unionization of Texas teachers, because it's clear that the techniques that you're using in order to extract dues from members is done, in my opinion, in a coercive way. The dues, as the testimony we have heard here today, are being used contrary to the express wishes of union members.

If I could, very quickly, I would like to ask you, ma'am, who paid your attorneys' fees?

**Ms. Klamut**. The National Right to Work Legal Foundation is a charitable foundation, and they have assisted me with both situations in which I had to file with the EEOC. I would not have been able to pay attorney fees.

Had I not known about them, I can't imagine what I would be doing. When the union sends out their information, it says you have no rights except to join and/or pay what they call a fair share fee to the union, so it's kind of a moot point. If you don't want to support that organization, the

money is still going to support that organization.

**Mr. Culbertson**. Right.

**Ms. Klamut**. So if it weren't for that agency, I'm not sure where I would be.

**Mr. Culbertson**. Mr. Chairman, I hope one of the things we can look at is allowing members who are forced to sue to protect their rights to recover their attorneys' fees so they don't have to seek the help of other organizations.

Thank you very much, Mr. Chairman, for holding this hearing.

**Chairman Norwood**. Mr. Kucinich, you are now recognized.

**Mr. Kucinich**. Thank you very much. I want to thank all the witnesses for being here.

I have some questions that I'd like to ask of Mr. Bentivegna. You've been on the Executive Board of the Local since October of 2000, right?

**Mr. Bentivegna**. Yes.

**Mr. Kucinich**. And as a member, you attended all the Executive Board meetings, right?

**Mr. Bentivegna**. That's correct.

**Mr. Kucinich**. At that time, was that when the union supported Mark Green for Mayor?

**Mr. Bentivegna**. Well, in 2001.

**Mr. Kucinich**. Right. But were you there during that time?

**Mr. Bentivegna**. Yes.

**Mr. Kucinich**. Okay. Now, in my own congressional district, I've been interviewed by local unions as part of an endorsement process, and it's been my experience that local union endorsements tend to follow a lengthy process which include questionnaires, forums attended by union members at which candidates speak, and interviews with campaign staff and the candidates. That's been my experience in Cleveland.

Does my experience differ from the process at 32BJ?

**Mr. Bentivegna**. Well, with the process regarding Mark Green, the Executive Board, actually supervisors, had meetings and we discussed whom we thought we would want to endorse. It did go to the Executive Board.

We had some forums where there were four candidates. We have a very large Latino membership, and I was always asking about Fernando Ferrer who was running for mayor. I had suggested quite a few times to send a survey to the members, and let's see who, you know, the members really want. We sent about eight mailings, some of them nice and big and colorful, for Mark Green, so I think out of those eight mailings, we could have sent a survey over to our members. It's their money. It's not our money.

**Mr. Kucinich**. But the process that I described is similar? I'm just trying to rely on my own experience here.

**Mr. Bentivegna**. Similar, yes.

**Mr. Kucinich**. Do you support the legislation that 32BJ endorses that would protect workers' jobs when a new employer takes over a job site?

**Mr. Bentivegna**. Yes.

**Mr. Kucinich**. And if you support this legislation, how is it that the union can't achieve this goal without being involved in politics?

**Mr. Bentivegna**. I don't know if you were here when I gave my testimony. I absolutely believe in a political program. I still contribute to COPE.

**Mr. Kucinich**. Oh, so you don't oppose the use of union dues for political activity?

**Mr. Bentivegna**. What I oppose is what happened in my local union.

**Mr. Kucinich**. Hold on, please. We have this unusual situation where we have a mark-up going on at the exact time that I'm talking to you, and I've just been called to vote.

Mr. Chairman, I'm going to vote.

**Chairman Norwood**. You can have your time back.

**Mr. Kucinich**. I'll yield back my time. That's what I have to do. Wish I could stay longer.

**Mr. Culbertson**. Well, come back and see us. We're not going anywhere for a while.

**Mr. Kucinich**. I may do that.

**Chairman Norwood**. Mr. Goodlatte, you're now recognized for five minutes.

**Mr. Goodlatte**. Mr. Chairman, thank you, and I want to especially thank you for holding this hearing. This is a vitally important issue about personal freedoms in this country. To paraphrase the author of the Declaration of Independence, Thomas Jefferson, who lived part of his life in my congressional district I'm proud to say: To compel someone to pay to support a cause in which

they disbelieve is tyranny. That is exactly what you are combating here by holding this hearing and forcing people who should be enforcing this law to focus on, and I thank you for doing that.

I also want to thank the gentleman from Texas, Mr. Culbertson, for pointing out that in his state, people enjoy the freedom to take action as to whether they'll support a cause like abortion rights. If they want to do it freely, they can do it. If they don't want to do it, no one else can force them to do it. That's the same right that's enjoyed in my state of Virginia, and 20 other states, as well. That's a total of 22 right to work states.

Now, Ms. Klamut, you don't have that right in Ohio, do you?

**Ms. Klamut**. No, I don't.

**Mr. Goodlatte**. If you lived in Virginia and had that right and were told by the Virginia Education Association that they were going to use the dues that you were paying them to support a political cause that you don't believe in, what would you do?

**Ms. Klamut**. I would not join. It's not specifically politics, because they're going beyond politics. The argument that I'm hearing is that they need to be involved in politics to provide representation that's friendly to, in our case, education. Why are they delving into abortion? I guess I don't see where that's an education issue.

**Mr. Goodlatte**. Well, that's a very, very good question. I see that it has very little to do with the benefits and working conditions which you, as a school department employee, are concerned with.

But nonetheless, I'd have to say that as an organization, they have the right to pursue these issues, no matter how contrived the relationship to what their main cause may be. However in Texas and Virginia and 20 other states you also have the right by voting with your feet and not participating.

Now, the fact that you don't have that right in Ohio is not due to the state of Ohio. That's due to the United States Congress and the Federal Government. In 1936, with the passage of the National Labor Relations Act, the Congress, none of us involved then thankfully, took away your right in Ohio and every other state in this country to choose to participate in a union or not. You and I would not choose to take away the right of the union to exist, or lobby for issues we don't believe in, but they took away our right.

In 1948, the Congress gave back part of our rights by saying that a state could choose to opt out of that federal law, and have an exception to have their own right to work law. But why this Congress continues to support what I think Thomas Jefferson would describe as tyranny, I don't know.

So I thank the Chairman for focusing on this issue, but I believe the real solution to this is to restore to you and everyone else in this country the right that people in Texas have, people in Virginia have, and people in 20 other right to work states have, that you and everyone in this country should have. That is to decide for yourself whether or not you want to join a union or pay

union dues.

**Ms. Klamut**. I would agree.

**Mr. Goodlatte**. That is what I hope this Congress or a future Congress will take up, because right now we have legislation before this Congress with more than 120 co-sponsors, and a lot more support than that, that would restore that right to you. I'm very proud of the bill that I've introduced, because it's a one-page bill. Not many bills in the Congress are one page long. What the bill does is simply repeal that section of the Wagner Act, the National Labor Relations Act that took away your rights for all time, until this Congress acts to restore it.

I thank the Chairman for holding this hearing and focusing on this issue and what can be done to solve this abuse of people's individual rights.

Thank you.

**Chairman Norwood**. Thank you very much.

It's important to point out that I don't think anybody up here objects to unions being involved in political activity. I think it would be crazy if they weren't. I think it's important that they do. But there are rules, and there are laws that govern how that should be done. What we're getting at is how you participate in the political activity is very, very important.

Now, I know we have things like LM-2 forms that are totally useless. I bet even Mr. Chanin would agree that it’s absolutely a waste of time to fill them out. I don't blame you folks for being angry, because it's just a serious waste of time. But, you know, there was a point to the LM-2 forms. The Landrum-Griffin Act really did want the rank and file worker to get an accurate picture of the financial operations of the unions, and what they do and how they undertake it. It's fair, that a worker understand what their money is used for.

Getting back to where I left off. We have two pieces of testimony here. One says the NEA participates in politics but is doing so outside of their political action committee, and using general dues. Nobody who must pay those dues in order to keep their job can figure out what they're spending the money for.

Mr. Levin, on Page 2, I believe you expound on that, because Mr. Chanin believes none of those expenditures actually are actually political expenditures. Therefore, general dues can pay for them. What is your position on that?

**Mr. Levin**. Well, general dues can pay for them if they report and pay taxes on them, and that's what they don't do.

Now, on the first bullet, the Congressman from Texas hit on something. Are these monies spent to turn out NEA members to vote, as opposed to trying to influence politics outside the organization? The first bullet says, “354 cyberspace advocacy systems developed and maintained on the NEA and state affiliate web sites that mobilize association members and the public in

support of pro-education legislation and candidates at the state and federal level." When there are quotes, it's not me it's them

I can't wait to see this codebook the NEA is going to send you so I can try and decipher that to mean that we're just supporting our own people when we're talking about the public. All the rest of these expenditures are in their Association materials.

So I don't have a Catch-22 problem. I didn't sign their tax return. They're the ones that brag every year at their 15,000-delegate assembly how they're influencing the direction of this Congress, and then tell the IRS they're not spending a penny. That's a Catch-22 they have to figure out.

What I'm saying is, if I'm a union member and I belong to the NEA and I want to know how much money my union is spending on election cycle 1996, there is no way I can find out or figure it out. And you know what's funny? I don't think the NEA has any idea.

**Chairman Norwood**. Could a better LM-2 form correct that?

**Mr. Levin**. I think so. I think an LM-2 form that pretty much follows the IRS definitions would provide the kind of information that the membership and non-members, who have to pay, have a right to have. That would allow the NEA and other unions to come up here and say, "Well, we filed accurate forms," instead of "Well, we're not required to, those forms are general."

We have a very precise reporting requirement from the IRS, and I contend that they're not filling those out accurately.

**Chairman Norwood**. Mr. Williams, I'd like to visit with you a few minutes.

You've gathered together a great deal of statistics on the political activity of NEA in your testimony. I'd like to give you the opportunity to add to your testimony by going over the importance of some of that data with us.

**Mr. Williams**. Thank you, Mr. Chairman. In Attachment 2, on Page 7, we list some of the things that the NEA has been doing in Washington State. It's very clear that what they've actually been doing is directly contrary to the statements of Mr. Chanin.

They have been involved in political races, and one of the key things is to develop a complementary plan for an external campaign, not internal to members, but external. They need to cooperate and coalesce with other groups at the state level.

Before the state affiliate can get money from the NEA, the Washington Education Association had to prove to the NEA that they had plans to organize and mobilize communities at the local level; external proof. In addition, the NEA assigned people to Washington State. Contrary to what Mr. Chanin says, the NEA has been found guilty in Washington State of violating the law in terms of our state.

The other thing is if you look at Attachment 3, and go down the first several items, these are not for members. The NEA regional representatives, the UniServ people, are the eyes and ears of the NEA for every one of your congressional districts. The NEA pays them.

In many congressional districts, a lot of the campaigns are run out of the UniServ offices. In the 2000 election, the NEA spent millions of dollars to put Internet access into the homes of the UniServ representatives. They were given CD ROMs in at least 27 key congressional races. The NEA can delegate UniServ representatives to go anywhere in the country for up to two weeks to work on political campaigns.

We know from the testimony, from the statements of Mary Elizabeth Teasley, the former government affairs person of the NEA, that the NEA did place a considerable field operation in Florida, not to communicate with their members, but to do voter banks in the whole of Florida.

You know, we repeat a lot in Attachment 2 and 3. I could go on all day about the evidence we have from Washington State. The NEA is involved in external campaigns in Washington State, has been found guilty and has been fined.

**Mr. Culbertson [presiding]**. Mr. Norwood has had to step out very briefly for a vote, and at this time, the Chair recognizes Mr. Owens for his round of questions.

**Mr. Owens**. Yes, Mr. Chairman. I ask unanimous consent to enter into the record a letter dated June 18, 2002, to Chairman Norwood, from Larry Engelstein, the General Counsel for SEIU, Local 32BJ.

**Mr. Culbertson**. Without objection, the letter will be entered into the record.

**Mr. Owens**. I have two points I want to make.

One, I'd like to have Mr. Chanin's help in clarifying the matter of religious objections. What must an agency fee payer with sincerely held religious objections do in order to have his or her religious objections accommodated by NEA?

**Mr. Chanin**. As far as NEA and its affiliates are concerned, that person must simply fill out a pre-printed form and mail it to our state affiliate, and an accommodation will be worked out. We work out those accommodations regularly, in every state throughout the country. Occasionally, in a system as big as ours, there may be a procedural snag. When it's called to our attention, we do the best we can to resolve it. It is simply filling out a pre-printed form.

Mr. Owens, may I have the opportunity to respond to these very specific accusations that were made a moment ago?

**Mr. Owens**. Yes, if you would be very brief, sir.

**Mr. Chanin**. Yes, I will.

The reference to this web site for the public let me tell you what that was. He is quoting from a plan of action, a proposed plan. The plan was to come up with a web site, which had a firewall, which made it accessible only to NEA members, and through those members to influence the general public.

In terms of the IRS and what we report, I will reiterate, just before the complaint was filed, we had a month, a six-month audit by the IRS checking all of our books, all of our filings, all of our activities. We got a completely clean bill of health.

The quote that Mr. Williams gave us about NEA money going into Washington did, indeed, go for politics, but not electoral politics. It went to help the Washington Education Association combat ballot initiatives that were anti-worker, anti-public education, and to fight against anti-union legislation. That is allowable and that was what the money went for.

**Mr. Owens**. Thank you very much. I want to make one closing statement myself.

This is the fourth hearing of this kind that's been held by the Republican majority, and I want to make it clear, today is June 20th, 2002, when we've had the experience of the Enron collapse and other corporations almost as large as Enron are collapsing, shareholders are losing large amounts of money, workers are losing a large amount of money in terms of their pension funds, we are focused on the wrong target.

Landrum-Griffin, whatever its shortcomings may be, was developed to respond to a crisis and a problem at that time, but the difficulties that Landrum-Griffin sought to correct with respect to unions were minuscule compared with the trillions of dollars we're dealing with now with corporations.

Yet the New York Times, the Wall Street Journal, the Washington Post will tell you that here in this capital, we are running away from the problem of any kind of regulation of the corporations which is meaningful.

This Committee voted on a bill where they weren't even willing to place a worker, a representative of the workers, on the pension fund board.

This Committee voted on a bill where they weren't willing to require that the top leadership in corporations report immediately on their transactions with respect to sales of stock, that the world should know what the top leadership, the executive leadership is doing with respect to their sale and purchase of stock. We would not sanction that. In general, the process going on right now is seeking to water down even the weak bill that was passed out of this Committee with respect to the protection of pension funds.

So we are harassing unions. This is the fourth such effort. We've learned as much as we should have needed to know in the first hearing, but it goes on and on, as a way to harass unions, while we know, as a fact, corporations loan high-level employees to campaigns. All kinds of things take place that no one seems to care about holding hearings on. But the immediate problem the American people feel is the collapse of confidence in the American corporate world, the whole

engine that drives our economy.

Trust in what happens on Wall Street, what happens with the corporations that take billions of dollars in funds from shareholders is at the heart of our crisis right now, and this Republican majority is ignoring that very important development, and I want the record to show that is the great error of continuing to have these hearings.

**Mr. Culbertson**. Thank you, Mr. Owens.

Mr. Bentivegna, I'd like to follow up on your testimony regarding the leafleting of subway stops. What candidates were you distributing leaflets for?

**Mr. Bentivegna**. Mostly for Mark Green. That was on September 11th, and I was in Brooklyn when the attack came, leafleting for a City Council candidate.

The thing that bothered me was that there was no choice; you were forced. You were told to get "X" amount of activists out there with you, and you had to be out there yourself.

**Mr. Culbertson**. Who was the candidate that you were distributing the leaflets for?

**Mr. Bentivegna**. Me personally?

**Mr. Culbertson**. Yes.

**Mr. Bentivegna**. Bill DiBlasio.

**Mr. Culbertson**. Did you observe any other union members distributing leaflets for either Mark Green or this other candidate, or other candidates, at subway stops?

**Mr. Bentivegna**. Oh, yeah.

**Mr. Culbertson**. What candidates?

**Mr. Bentivegna**. Who are the candidates?

**Mr. Culbertson**. Any union members that you can recall, for the record, that you saw distributing leaflets?

**Mr. Bentivegna**. Well, the entire staff, and hundreds of members that we had to recruit.

**Mr. Culbertson**. Is it correct to assume that you were distributing leaflets to the general public, and not just to members of the SEIU?

**Mr. Bentivegna**. Yes.

**Mr. Culbertson**. Did the union pay you for the time that you spent distributing leaflets?

**Mr. Bentivegna**. We were told to take personal days or vacation days.

**Mr. Culbertson**. Did you volunteer to do the leafleting?

**Mr. Bentivegna**. There was no volunteering.

**Mr. Culbertson**. In what way did the union coerce or force you to do this leafleting? How was it made clear to you that it was not a volunteer effort?

**Mr. Bentivegna**. Well, to read a memo: "Supervisors and delegates are expected to work from 6:00 a.m. to 9:00 p.m. on primary day."

**Mr. Culbertson**. For purposes of clarifying the record, could you tell us what memo you're referring to?

**Mr. Bentivegna**. I'm referring to a memo I didn't give in. It was a memo from Kevin Doyle, the Vice President of the union, to all supervisors and delegates, leading up to the September 11 primary. In earlier meetings, we were told how we had to get "X" amount of members and there's a chart here describing how many members we had to recruit.

**Mr. Culbertson**. If I could at this time, I want to be sure to enter this memorandum dated August 20th from Kevin Doyle as part of the record of this hearing.

**Mr. Bentivegna**. Yes.

**Mr. Culbertson**. Without objection, so ordered.

Mr. Bentivegna**,** could I also refer you to a copy of a memorandum from Ms. Lisa Watson, dated October 23, 2001. Have you seen this before?

**Mr. Bentivegna**. Yes.

**Chairman Norwood**. This is a true and correct copy of that memorandum?

**Mr. Bentivegna**. I'm sorry?

**Mr. Culbertson**. The copy appears to be accurate?

**Mr. Bentivegna**. Yes.

**Mr. Culbertson**. I'd like, at this time, if I could, to enter this memorandum, dated October 23, 2001, into the record, without objection.

Have you ever seen this before?

**Mr. Bentivegna**. Yes, and let me explain this one. This was leafleting subway stations.

Each supervisor, of which I was one, had to pick five shifts in certain subway stations that we would have to handle. The shift times, if you notice, are 7:30 a.m. to 9:00 a.m. and then 4:30 p.m. to 6:00 p.m. Our members come in at 8:30, and we were to be there to service our members, but instead, we were leafleting subway stations in the morning and at night.

**Mr. Culbertson**. This memorandum, then, makes it clear that you had to work 15 hours a day on a primary day?

**Mr. Bentivegna**. Yes.

**Mr. Culbertson**. Were you paid overtime for that 15-hour day?

**Mr. Bentivegna**. No.

**Mr. Culbertson**. What work were you expected to do?

**Mr. Bentivegna**. We were expected to do house visits, knocking on doors, and leafleting.

**Mr. Culbertson**. For what purpose?

**Mr. Bentivegna**. Getting the vote. Reminding people to vote for Mark Green or whomever you were assigned to.

**Mr. Culbertson**. Was the staff paid overtime for marching in a Labor Day parade or for the primary election on the weekend of September 8 and 9, 2000?

**Mr. Bentivegna**. No.

**Mr. Culbertson**. Now, I'd like to show you a copy of a memorandum from Mr. Bryan Lambert, and I believe you should have a copy of that there in front of you.

**Mr. Bentivegna**. I don't have that copy.

**Mr. Culbertson**. Have you ever seen it before, sir?

**Mr. Bentivegna**. I don't have that copy in front of me.

**Mr. Culbertson**. This is dated October 16, 2001. I want to be sure the witness is provided with a copy of it, so you can identify it for the record so that we can enter it.

**Mr. Bentivegna**. Thanks. Yes.

**Mr. Culbertson**. Can you identify this memorandum, sir?

**Mr. Bentivegna**. Yes, I can.

**Mr. Culbertson**. And have you ever seen it before?

**Mr. Bentivegna**. Yes.

**Mr. Culbertson**. I'd like to have this memorandum entered into the record. Without objection, so ordered.

What did the staff do on October 11, 2001?

**Mr. Bentivegna**. What they did on October 11th was exactly the same as 9/11, 9/25, and November 6th. They all were forced to take personal days or vacation days.

**Mr. Culbertson**. To do what, sir?

**Mr. Bentivegna**. To take personal days or vacation days to campaign for Green and others, and if they had no vacation days left, we were told, "Borrow from next year's."

**Mr. Culbertson**. Was the work for the Green campaign voluntary?

**Mr. Bentivegna**. No.

**Mr. Culbertson**. If it was not voluntary, why would members have to take a personal day or a vacation day?

**Mr. Bentivegna**. Well, let me clear that up. We recruited the rank and file members. That was voluntary. The staff that worked for the union itself, were forced to take personal days and vacation days.

**Mr. Culbertson**. How was that done? Why would you have to take a personal or vacation day?

**Mr. Bentivegna**. Because we were told to do that. Let me add, I argued a little bit, but it went nowhere.

**Mr. Culbertson**. Sure. Now, Mr. Bentivegna, can you tell us something about the two payments of $300,000, please?

**Mr. Bentivegna**. What happened there, at a board meeting our president, Mike Fishman, said we were going to borrow money from our treasury to put into the COPE fund to go to the Mark Green campaign. I questioned that, whether that was legal, as did others; and our general counsel assured us that this was perfectly legal, it's, you know nothing out of the ordinary.

**Mr. Culbertson**. Now, you say to the Mark Green campaign. What did "to" mean? How would they deliver it, in what form, and to whom?

**Mr. Bentivegna**. They didn't tell us much. They don't give us all the details.

**Mr. Culbertson**. Was it your understanding that these payments were to come out of the general treasury?

**Mr. Owens**. Mr. Chairman, point of order?

**Mr. Bentivegna**. Absolutely.

**Mr. Owens**. You have exceeded the five-minute limit. Ms. Woolsey has been here for some time and would like to ask a question.

**Mr. Culbertson**. I'll reserve the remainder of our questions until we get back to our time. Thank you.

Ms. Woolsey, you are recognized, please.

**Ms. Woolsey**. Thank you very much, Mr. Chairman.

**Mr. Culbertson**. Ms. Woolsey, we are running a little tight on time for a vote on the floor.

**Ms. Woolsey**. No, no, no. We have time. We've only had one bell.

**Mr. Culbertson**. I'm sorry. We need to recess, so we'll come back and start with you. I assure you you'll be first.

**Ms. Woolsey**. I can't come back, Mr. Chairman.

**Mr. Culbertson**. You'll be the first one out of the gate.

**Ms. Woolsey**. I can't come back. I'm sorry.

**Mr. Culbertson**. We are out of time, and we need to recess to allow Members time to make that vote. We will stand in recess subject to the call of the Chair. As soon as the vote is concluded the Chair will reconvene this meeting.

We are in recess, subject to the call of the Chair.

**Ms. Woolsey**. You guys are bullies.

[Recess.]

**Chairman Norwood**. The Committee will come to order. Ms. Solis, you're now recognized for five minutes.

**Ms. Solis**. Thank you, Mr. Chairman.

I appreciate the opportunity to have this hearing. I also just want to add my comments, that while we may not always agree on issues, it is important to hear individuals testify on both sides, and I think it's very important that we try to have a balance.

I understand that we have two individuals that are testifying that represent the unions, who are in favor of the protections that are in place that are provided by unions, so I want to welcome all of you, but I particularly want to hear testimony or some of the comments you made, Ms. Martinez, and welcome you for being here.

I'm from Los Angeles, and have worked closely with many of the maintenance workers in SEIU in Los Angeles, in their recent Justice for Janitors campaign, and wanted to hear more from you, because you mentioned you were an immigrant. What kinds of protections do you see the union providing for workers who are coming into this area of work?

**Ms. Martinez**. Well, the union doesn't care what nationality you are. They help you. They're there to stand behind you at work, and I think that's very important. Everyone needs that. You have rights when you are at work when you have a union behind you. I especially feel that's very important to me, since I'm a single woman, to have the union behind me at work.

**Ms. Solis**. Do you find that the information that the union provides you is useful to you?

I understand you mentioned issues regarding wages earlier in your testimony. Is that useful, to get information regarding livable wages and wages that are providing workers with adequate sustenance, so that they can keep their jobs and keep their households going?

**Ms. Martinez**. Yes. Yes, I do.

**Ms. Solis**. Okay. Thank you for coming and being here.

My other questions would be directed to the representative from NEA, Mr. Robert Chanin. I wanted to ask him, with respect to education employees who are represented by NEA affiliates in collective bargaining, are they required to join NEA?

**Mr. Chanin**. No. NEA is a voluntary organization. We have no union shop arrangements anywhere in the country. There are no union shop arrangements in the public sector. All of our over 3 million members have chosen to voluntarily join.

If someone does not choose to join, but is represented by one of our unions in collective bargaining, that person may be required, under state law, to pay an agency fee to offset his or her

share of the services that he or she receives.

**Ms. Solis**. My next question is, if an education employee voluntarily opposes to join NEA, and then objects to certain political or ideological positions, as was stated earlier by other witnesses, or activities engaged in by the affiliates, could he or she obtain a rebate on those dues?

**Mr. Chanin**. Absolutely. We first figure out how much the agency fee is.

We mail, every year, to every agency fee payer, what's known as a Hudson packet. It's about 60 pages of information explaining what we intend to charge them, the basis for that charge, and how the money will be expended, and it includes a report by an independent auditor.

If any agency fee payer objects on political, ideological, or religious grounds, the person simply sends in to the affiliate a pre-printed form and that person, if it's political or ideological, will get a rebate on the amount of the fee. If it's religious, and we conclude it is a legitimate religious objection, the person will probably pay no money to the union. All of his or her money will go to some non-religious charity that is generally agreed on between the union and the individual in question.

**Ms. Solis**. Are there any cases that you can cite or instances where this has occurred?

**Mr. Chanin**. We work out, we must have, and this is off the top of my head, maybe 30,000 or 40,000, 50,000 agency fee payers. Most of them do not object. We have several thousand objectors every year. At least 98 percent of them work through our system, get their rebate, have their accommodation, and everyone is satisfied with it.

In a system as big and diverse as ours, there are occasionally people who are dissatisfied with the way the system works. They file a complaint. We do our best to resolve them, and occasionally, really one out of 30,000 to 40,000 will end up with a charge to the EEOC, and we do our best to resolve it in that forum.

**Ms. Solis**. One of the issues raised today at this hearing was with respect to religious objections by some of the fee payers. How do you handle that? How does NEA accommodate that?

**Mr. Chanin**. The way in which that works is, if the person files this form indicating that he or she has a religious objection, we will generally meet with the person and attempt to agree upon a mutually acceptable non-religious charity. The Red Cross is commonly picked, or some other charity, and all of that person's money is sent to the charity, and the union will receive no money from the person.

The only thing we ask for is, we need to make a determination that it is a sincerely held religious belief, and it's a very simple one or two questions to determine that, and then we move on. That is how it operates, to my knowledge, in all of the NEA state affiliates.

**Ms. Solis**. Do they have to fill a form out annually to do this?

**Mr. Chanin**. Pardon me?

**Ms. Solis**. If they have an objection based on their religion, do they have to appeal this annually? How does that work?

**Mr. Chanin**. Well, that varies from state to state. In some states, if the objection is lodged, it will continue for several years. In other states, we do require that it be renewed annually.

The reason for that is, the objection is typically to a policy position that NEA or an affiliate may have taken. Those policy positions change from year to year, and we send out the form again to see if the person has changed his or her mind or is still troubled by the policies we take.

**Ms. Solis**. So you do make an attempt to get back to them?

**Mr. Chanin**. We do. We do. And it varies somewhat from state to state.

**Ms. Solis**. Thank you very much. Thank you, Mr. Chairman.

**Chairman Norwood**. Mr. Culbertson, you're now recognized to continue with your line of questions.

**Mr. Culbertson**. Thank you, Mr. Chairman.

Mr. Bentivegna, if I could complete the line of questioning that I had begun with you before we had to recess for the vote, you had described the two $300,000 payments. Once again for the record, if you could please, tell us about those two payments and what they were intended to be used for.

**Mr. Bentivegna**. Okay. This proposal was brought up, that we were going to borrow from the treasury two payments of $300,000 to go into the COPE fund to be spent on the Green and other campaigns. I questioned it and one or two other board members questioned whether this was legal, and we were assured that it was legal.

The plan then would be to get incoming COPE money the following year, which would obviously be this year, and replace that money back into the treasury.

**Mr. Culbertson**. And who brought this idea up and where was it first brought to your attention?

**Mr. Bentivegna**. President Fishman and General Counsel Engelstein.

**Mr. Culbertson**. And the money was to be given directly to whom? Where did they tell you the money was going to go?

**Mr. Bentivegna**. Well, they didn't. You know, it was vague. But the money was going to be taken from the treasury to the COPE fund, to give to the campaigns, the political program and the

candidates we were supporting.

**Mr. Culbertson**. It was made very clear to you that that was the purpose of the $300,000 payments, for political purposes, to be used for the Mark Green campaign?

**Mr. Bentivegna**. For political purposes.

**Mr. Culbertson**. For the Mark Green campaign?

**Mr. Bentivegna**. And others.

**Mr. Culbertson**. And others. Was it also your understanding that these payments were to come out of the general treasury of Local 32BJ?

**Mr. Bentivegna**. Yes.

**Mr. Culbertson**. Does the general treasury of Local 32BJ contain funds that were derived from union dues?

**Mr. Bentivegna**. Yes, they do.

**Mr. Culbertson**. The funds are commingled?

**Mr. Bentivegna**. I'm sorry?

**Mr. Culbertson**. The funds are mingled together?

**Mr. Bentivegna**. No. The general treasury is our dues money.

**Mr. Culbertson**. Right. Was there any consultation with the membership of Local 32BJ before this expenditure was made?

**Mr. Bentivegna**. No.

**Mr. Culbertson**. Thank you very much for your testimony.

And I want to make it clear to Mr. Chanin and for the record that I understand that the NEA is, as you describe it, a voluntary association. But as I understood your testimony and the questions that you were just asked, Mr. Chanin, those who do not choose to join the union have their paychecks docked against their will. If they're not a member they have to distribute out of their paycheck what is determined to be the benefit they derive from the work you do in collective bargaining; is that correct?

**Mr. Chanin**. That's a slight overstatement. In some states, we have been successful in negotiating agency fee arrangements. In the states in which we have negotiated them, the people who don't join are required to pay a fee to the union to offset the benefits of collective bargaining. It's not a

universal; it's in certain locations.

**Mr. Culbertson**. Under state law?

**Mr. Chanin**. Under state law. We do not operate under the National Labor Relations Act. There are 20 states now that have laws that allow unions to negotiate agency fee arrangements. In those states, if we are successful on a local-by-local basis, we may or may not have an agency fee.

**Mr. Culbertson**. Well, it is truly a point of great pride in Texas that our greatest right is the right to be left alone, for the government to stay out of our pocketbook, our lives, our business, and away from our families, and your testimony here today certainly does reaffirm my passionate commitment to that right. It's important, I think, that not only teachers, but everyone who works a job has the right to do so without being compelled to join a union, without being compelled to give up some portion of their paycheck to support the activities of the union, or to pay for activities of the union that they are religiously or philosophically opposed to. It is a point of great pride in Texas that I hope we're able to extend around the nation now that our great governor has been elected President.

**Mr. Chanin**. Our 40,000 members in Texas would like nothing better than the right to engage in collective bargaining so that they can improve their salaries and working conditions. It's one of the goals of our affiliate in Texas.

**Mr. Culbertson**. Collective bargaining so they could strike?

**Mr. Chanin**. No. Public employees in most states cannot strike. They want the right to bargain so they can be involved in resolving problems that affect their working conditions. There are only four or five states in the country that allow public employees to even have a limited right to strike.

**Mr. Culbertson**. Well, we in Texas have certainly resisted that. I know we will continue to, because we honor individual freedom, and the idea that a teacher would strike and shut down a school, I think, is abhorrent. It is one of many, many reasons I strenuously disagree with the work that the NEA does as a union, and I'm proud to say I've never taken a nickel from the unions, ever in my years of public service.

Thank you.

**Chairman Norwood**. Thank you very much, Mr. Culbertson.

Ms. Klamut and Mr. Robey, I want to direct some time to you, if I could. I'm going to ask both of you to answer the same question.

Ms. Klamut, we'll start with you. I was a little bit amazed to hear the testimony that NEA is a voluntary organization. Do you have any thoughts about that?

**Ms. Klamut**. I'm sorry. I don't mean to be flippant, but voluntary? I guess it depends on your definition of voluntary. Voluntary, to me, would be "Yes, I agree, and here is my money."

I don't want the representation, and albeit I realize it exists and that collective bargaining exists, and they would say I reap the benefits. I might debate that. However, the organization funds things that are just "anti" what I believe in; anti-family, anti-education.

**Chairman Norwood**. Well, there are civil rights laws to protect you from that. What's wrong?

**Ms. Klamut**. They're still trying to get my money. They are collecting this money, and it's not voluntary, and most rank and file people don't realize they have any kind of choice, because the packet that Mr. Chanin referred to that's sent out says you have two options. One is to join the union, or two pay your fair share, which is like 90 percent of the union dues, to the union.

**Chairman Norwood**. Ninety percent?

**Ms. Klamut**. Eighty-seven or 90 percent, something of that nature.

**Chairman Norwood**. So you can join and pay dues?

**Ms. Klamut**. Correct.

**Chairman Norwood**. You can not join, and pay dues?

**Ms. Klamut**. Correct.

**Chairman Norwood**. And so " voluntary" means to decide which of those you want to do?

**Ms. Klamut**. Right. And you can do either one. You have that freedom.

And if you find their resolutions abhorrent, if you find some of the issues that they delve into counter to everything that you believe, whatever your belief system, you have no choice.

I am amazed that Mr. Robey and I even found some kind of voice so that we could argue against this. Had we had to pay attorney fees on the incomes that we generate as educators, we couldn't do it. So it's not voluntary, and there is no choice, and there is no dissemination of knowledge that even religious objectors have any kind of choice.

**Chairman Norwood**. Well, Mr. Chanin is obviously a very good lawyer, and he knows that Civil Rights Title 7 gives you the right to opt out of that if it's against your religious beliefs. Why couldn't you get out of it? What was the problem?

**Mr. Robey**. The problem is, you don't know. The Hudson packet that he referred to does not say one thing about religious accommodation. As Kathleen said, you're offered two choices; fair share or you join the union. Either way, you pay, and it's compulsory. I can't stop anyone from taking

the money out of my paychecks.

So I and some other teachers have stumbled across the fact that we do have that right.

**Chairman Norwood**. What happened when you tried to exercise that right, Mr. Robey?

**Mr. Robey**. Well, the first year that I tried to exercise that right, they totally ignored me. I didn't even get a letter responding, saying that "You've been ignored, you know, that?" "You're not going to get it." I got nothing.

**Chairman Norwood**. All right. Wait a minute, now. What were your options at that point? You discovered that you had rights. You tried to exercise those rights with the union, and they ignored you. What could you do next?

**Mr. Robey**. Well, at that time, I didn't know what I could do next, so I did nothing. But the following couple of years, I did a little more research and I found that I could do something.

**Chairman Norwood**. Are there other people like you?

**Mr. Robey**. Many.

**Ms. Klamut**. Yes. Yes.

**Mr. Robey**. My attorney, for example, has numerous affidavits of people from Ohio alone that are in the same situation I am. It took me one year, 13 months, for me to get the religious accommodation.

Mr. Chanin says that is an occasional thing that happens. There are numerous affidavits from the people just in Ohio that have gone through these same types of situations. This is a common occurrence, much more common than we were being led to believe here.

**Chairman Norwood**. So again, we have conflicting testimony.

One side says this is voluntary and the other side says it's not. One side says that just the two of you, nobody else is involved. The other side says, wait a minute, there are a lot of people involved, but most folks who teach school can't run out and pay Mr. Chanin's fees to get your rights taken care of

Is that where we are?

**Mr. Robey**. That is correct, and also, most people don't know they have that option. I'm sure more would exercise it if they knew. They're only going to find out if they stumble across it or happen to hear about our little battle going on in the press. That's the only way they're going to know.

**Ms. Klamut**. And then it would be a battle. Because for me to change school districts and to have already established that I have a religious accommodation, to move just 20 minutes away from my

previous school district and to be told that wasn't legally binding. This UniServ person who I understand has no legal training, her expertise is targeting problems with the union, has in no way attempted to even accommodate me, discuss this, or ask about it.

I guess the term “stonewall” is what comes to my mind. We're one of the few groups of people that understand we have these rights, and even as we attempt to exercise these rights, this is the extent we have to go to ask for an accommodation because of religious beliefs.

**Chairman Norwood**. The unions are to help you. That's their job, I think. That's what I understand their job to be.

They don't inform you of your rights? They don't tell you, “Look, you know, we've got things we've got to fund, but if any of them go against your religious beliefs, there's a way out of that.” They don't inform you of that?

**Mr. Robey**. No.

**Ms. Klamut**. No.

**Chairman Norwood**. I thought they were for you.

**Mr. Robey**. It is not posted at the school; it's not in the Hudson packet. It is nowhere.

**Chairman Norwood**. I will conclude.

Mr. Chanin as general counsel to the largest union in the United States, I know you're familiar with the Landrum-Griffin Act, and my question is, is one of the purposes of the reporting and disclosure section of that act that, “A union member should be able to get an accurate picture of all the financial operations the union has undertaken.” Is that one of the purposes of the Landrum-Griffin Act?

**Mr. Chanin**. I believe it is.

**Chairman Norwood**. No offense. Don't give me a lawyer answer. Give me a granddaddy answer on this. Do you really believe in your heart that a member of the NEA should be able to know how much money his or her union is spending on not just politics, but other issues in which the unions are involved that affect their religious beliefs?

**Mr. Chanin**. I believe they should and they do, and not only the members, but the agency fee payers, as well.

The statements that were made here that they're not alerted to the fact that they have the right to file a religious objection, I cannot speak at this moment about the form used in Ohio. I know that many of our state affiliates include that information in the Hudson packet.

**Chairman Norwood**. Well, tell me, give me a clue about a document produced anywhere by the NEA that states simply, "This is how much money the NEA has spent in a year."

**Mr. Chanin**. Oh, well, as far as the agency fee payers are concerned, it's the audited statement that it sent every year to every agency fee payer, a 30-page document verified by an independent auditor, which breaks out all of our expenditures and charges.

If someone wishes to go beyond that, we produce a budget document, and we produce 30,000 of them ever year, and send them out to every local affiliate in the country, and they are made available to every member or fee payer in that particular local.

**Chairman Norwood**. So members of the unions can very readily determine what their union leadership is spending money on; is that what you're saying?

**Mr. Chanin**. We believe not only members, agency fee payers as well.

In addition, they can go to the many filings we have with the Internal Revenue Service, which is a public document; the Landrum-Griffin Act, which is a public document; and the Federal Election Commission, which is a public document.

**Chairman Norwood**. Does anybody else agree with that?

**Mr. Chanin**. I think my colleague here does.

**Chairman Norwood**. Mr. Williams, do you agree with that?

**Mr. Williams**. Mr. Chairman, I categorically disagree with that. As a trained CPA, there is no way you can take the information in the Hudson packet put out by the NEA and determine the percentage chargeable or non-chargeable.

I had a power of attorney as a trained CPA to represent a teacher at an arbitration hearing. The NEA refuses to give the teachers, the challengers, copies of the documents in advance of the hearing. They have someone on a conference call. It's the only time you can challenge it.

I had to go up to the union headquarters where the arbitrator is picked by the union, paid for by the union, and lay out seven different documents. The documents don't track.

The information that they give to their representatives at the NEA representative assembly is a different format than the information they provide in the audit. There is no trained auditor who can go through the documents they provide in the Hudson packet and determine the percentage of chargeability.

Enron would love their accounting system.

**Chairman Norwood**. Ms. Klamut, did you ever get a Hudson packet?

**Ms. Klamut**. Yes, sir, I did.

**Chairman Norwood**. I bet you could figure out, because you're a teacher, how much was being spent.

**Ms. Klamut**. No. Maybe my master's degree is in the wrong area.

**Chairman Norwood**. Okay. Mr. Robey, you knew?

**Mr. Robey**. No, I'm sorry, I did not know. There's no way you can tell by looking at it, and the only people that do get them are those that choose to do fair share. The standard person that's a member wouldn't even see one of those.

**Ms. Klamut**. Perhaps Mr. Chanin will send Mr. Robey and I those forms now. We'll be receiving those in the next week or so?

**Mr. Chanin**. If you would contact me, I'll send you any documents that are helpful to you.

**Ms. Klamut**. I mean the form that we fill out so that we can be religious objectors, specifically.

**Mr. Chanin**. I believe an effort is being made through the EEOC to work out your problems as we speak.

**Chairman Norwood**. The Labor Department has a mission under Landrum-Griffin. Surely we can go to the LM-2 form and discover how much money a union spent. Right, Mr. Chanin?

**Mr. Chanin**. You can get the information that the Landrum-Griffin Act requires us to provide.

**Chairman Norwood**. You're back to lawyer answers.

**Mr. Chanin**. No. No. It does not provide as much as our 50-page budget does, but it provides several pages of relevant information about how our money is spent.

**Chairman Norwood**. Let me ask this final question, then.

Would you agree or not agree that the current LM-2 form does not fulfill the purpose of the reporting and disclosure provisions of the Landrum-Griffin Act?

**Mr. Chanin**. For the record, I think it's an adequate form and it does fulfill the purposes, yes.

**Chairman Norwood**. Does anybody else familiar with the LM-2 form at that table think that the LM-2 form does indeed fulfill the requirements of the Landrum-Griffin Act?

**Mr. Levin**. No.

**Chairman Norwood**. For the record, Mr. Williams and Mr. Levin shake their heads that they don't agree.

**Ms. Klamut**. No.

**Chairman Norwood**. Ms. Klamut doesn't agree. Mr. Robey, Ms. Martinez? Not sure. Not sure, Mr. Bentivegna. Well, I too agree that you can't tell.

Ms. Solis?

**Ms. Solis**. Yes. Am I allowed to ask one question?

**Chairman Norwood**. You know you are.

**Ms. Solis**. Thank you.

I'd like to ask Mr. Robert Chanin, with respect to the religious objector provisions in Title 7 and the NLRA that were enacted, my understanding is that they were, in fact, enacted by the Supreme Court before the Beck decision was decided, and created a right for anyone represented by a union to object to paying anything not related to collective bargaining, contract administration, or grievance disputes.

In light of all this, are the religious objector provisions still necessary?

**Mr. Chanin**. Well, the religious objector provision in Title 7 we think is appropriate. We think it's necessary. We comply with it. I think it gives people like these individuals here the absolute right to get their money back if they object on religious grounds to any policies.

What Beck and some of the other cases deal with are not objections on religious grounds, they're objection on political or ideological grounds, which is somewhat different than the religious objection.

As far as anyone's complaint about what we may or may not send out to agency fee payers, I can say to you, we comply with both the letter and spirit of all of the Supreme Court decisions which tell unions what they have to send out. As a matter of fact, NEA has been involved in most of those Supreme Court decisions, and we bend over backwards to comply, both letter and spirit, to what the Supreme Court has said we must include in our Hudson packet.

Every time we have been challenged in court, we have prevailed in demonstrating that we do comply with what the Court asks us to do.

**Chairman Norwood**. Thank you all for this long but important hearing. It's important to me, and I have a hunch it's important to some of the people at our table and in the audience.

This really is about the rights of individual Americans who happen to be in a union. It is not about the difficulties that union leadership has in collecting their dollars. Is about your everyday

constitutional rights.

Before I came to Washington, I was just a country dentist, and I still am. The only reason I was crazy enough to run for this job is that I thought things in this town were messed up, and I wanted to do something about it, so here I sit. I know very little, frankly, about unions and have certainly never been involved in them. Now that I've gotten involved in this issue of union dues that I really didn't ask to get involved in and have listened to today's testimony, I can honestly report to you that our government is more messed up than I ever imagined.

At this hearing, we have two God-fearing Americans, and they're telling us that their union dues money was being used to support causes that are contrary to their Christian beliefs. There isn't a person in this room that doesn't know that's not right and not what this country was founded on. There's not one of you, I don't care which side you're on or where you are on this issue. That is dead wrong in America. They did not want to be forced to violate these beliefs that they held deeply by supporting causes that contradict the Bible and promoting activity that the Bible clearly prohibits. They ought not to be forced to do that. It doesn't matter who you are. In America, you don't have to do that.

Yet, despite the Constitution and the laws that Congress enacted, these good folks have to move Heaven and Earth, and go to court before they're allowed to have their money directed to a charity rather than a cause in which they truly, deeply don't believe. Typically teachers have difficulty paying legal fees

It seems that the leadership of the Ohio Education Association, from what I've heard today and what I've read, has no respect for the beliefs and rights of these two good people, and I'm not sure how many others may be involved in this. It's hard for anybody to know that. We've heard testimony that it's just a couple of people, and we've heard testimony that it involves a lot of people. I guess the leadership in Ohio believes it does not have to obey the law until it is served with a court order to do so, even though the law is pretty clear.

Why should the Ohio Education Association act any differently, frankly? It's parent organization, the National Education Association, has precisely the same attitude about this. It reports to the IRS that it spends zero dollars on political expenditures. Most people who have run for an elected office know differently than that. You don't have to have an accounting degree to be able to figure that out.

Now, I know that some in Washington are not sticklers for the truth, and that's sad. Richard Nixon said, "I never lied to the American people," and Bill Clinton said, "I never had sex with that woman." But at least those two statements were initially plausible. We wanted to believe them. We wanted them to be true. The NEA's statement on its Form 990, that it spends zero dollars on politics, isn't credible, even for a country dentist. I know better than that. Everyone in this room knows better than that. Everyone at the IRS, with a pulse knows better. But nothing is done in this town, and I don't like the word lying, but it is. The lying and the evasion continue and we continue to talk about it, and next year it will continue again.

We also heard from a gentleman today who was a member of the Service Employees International Union for 15 years. The man, it seemed to me, has worked very hard to clean up his local union. That's a real union member. That's somebody who really cares about the working people in the union. A large portion of his dues was used by the local president to build a marble penthouse and to pay himself $400,000 a year. That's not what unions are about. That should not be their function.

Their function, Ms. Martinez, should be what your union did, which is admirable from all of our points of view. Take care of each other. Be a family. Negotiate. Try to get better wages. That's what it's all about. It isn't about somebody having a marble penthouse. When the penthouse paid for with union dues was exposed, he was not prosecuted, or even asked to give the money back. He was given a golden parachute of $1.5 million. Guess where that money came from. You helped pay it, Ms. Martinez. Mr. Bentivegna, you helped pay it.

After a new election was held, our witness was elected as a union officer and hired as a staff person. He then found that part of his job was to campaign for political candidates while on union time. What he didn't know is that this is an illegal in-kind contribution for a union that has given the candidate the maximum contribution under the law. I have to follow that rule. Most of us have to follow those rules.

He also saw $600,000 of his local's funds illegally laundered to help the campaign of a candidate that the union leadership had chosen without any consultation with the membership. That candidate was chosen by a handful of people, and a large number of people were forced to pay for it. Didn't matter whether they liked it, believed in it, right candidate or wrong. “You just send the money. We'll take care of it.”

One might think this could only happen in some corrupt fringe of the union movement, in a local dominated by members of the Mafia perhaps. No, it didn't. It happened in the home local of John Sweeney, the president of the AFL-CIO. The corrupt union official who built the marble penthouse was John Sweeney's successor as president of that local. Furthermore, Mr. Sweeney was a member of the local's Executive Board while this pillaging of local finances took place. Everyday working people were buying that penthouse. Then, when that person was exposed and forced to leave, the union was taken over by Michael Fishman, the former chief assistant to Andrew Sterns, successor to John Sweeney, as president of the Service Employees International Union and formerly a chief aid to John Sweeney.

And the allegations of corruption continue. This is about taking money from working Americans who get up every day and work hard and pay their dues to a union so that union will help them. Has that local ever even been audited by the Department of Labor or prosecuted by the Department of Justice, ever? The answer to that is, no. That's wrong.

Now, there is a right way and a wrong way in this world, and Lord knows, we have a hard enough time following it, but that is wrong. I would like to announce at this hearing that this lawlessness will not continue if there's anything on this Earth I can do about it, and I have two messages.

One, to John Sweeney: John, your home local that is being run by your protégé is being accused of committing a serious crime. Use your influence and the many resources of the AFL-CIO, to find out the truth. If illegal acts were committed, report them to the proper authorities and make everybody look better.

I also have a message for this Administration, that is headed by a President that I support, continue to admire, respect, and work hard for. Dear Mr. President: Take charge of this government and enforce the law through the Labor Department, all the laws, but let's just start at the Labor Department, because enforcement over there hasn't taken place for years.

This Administration has been in office for nearly a year-and-a-half. It is time it started to enforce the Landrum-Griffin Act, or repeal the act. We need new disclosure forms. The LM-2 forms are an absolute joke. We need to give the Secretary of Labor the resources that she needs to enforce the law. We are a nation of laws, and without them, we are nothing.

Most of all, we need a new attitude in Washington, D.C. about the rights of workers. I'm not talking about the people who run the unions. I'm not talking about the leaders. I'm talking about the God-fearing Americans who are the first to answer the bugle when the time comes, that get up every morning and go to work, those workers who performed so admirably in New York City. That's who I'm talking about, and that's what this hearing's about. Workers are not wards of the unions. Workers have rights, and unions are not above the law, and it is high time we separated the word “union” and the individual worker.

It is about time that the Justice Department and the Internal Revenue Service and the Labor Department start enforcing the law. I don't care where you are on this issue; it is time for them to do their job. If they don't, officials of those departments are going to be sitting in those chairs as witnesses under oath, and I'm going to wear them out.

It is time the workers that choose to be in unions, which is 10 percent of the workforce of this great country, have their rights enforced by whatever means this government has. We have the ability. Now it is time to have the will.

Thank you all for your kind attention. Thank you for attending our hearing. We hope to be discussing this again in the near future.

Whereupon, at 1:15 p.m., the Subcommittee was adjourned.

***APPENDIX A - WRITTEN OPENING STATEMENT OF CHAIRMAN CHARLIE NORWOOD, SUBCOMMITTEE ON WORKFORCE PROTECTIONS, COMMITTEE ON EDUCATION AND THE WORKFORCE***

**Opening Statement of Chairman Charlie Norwood**
**Subcommittee on Workforce Protections**

**June 20, 2002**

Good Morning.

Today's hearing continues the effort of the Subcommittee on Worker Protections to determine how unions are spending the dues that workers are compelled to pay them under union security agreements. Today's hearing will focus on the use of union dues for political purposes and concentrate on the question of whether the Law is being followed or violated.

This is a serious issue. Under the First Amendment of the Constitution of the United States, citizens of this country cannot be forced to contribute to causes which violate their religious beliefs or with which they disagree for other reasons. I continue to be frustrated by the failure of unions to honor these basic American principles. Today we will hear from two more hardworking Americans who have not had their rights respected.

The use of union dues for political purposes is also an important issue because it affects the integrity of our electoral process. Campaign financing has been a major issue in this Congress. We have passed the McCain-Feingold bill. But campaign finance laws are useless if they are not enforced. We have a myriad of laws that restrict what unions can do politically with dues money. Today we will hear from an active union member about the activities of his local that he has seen that indicate that those legal restrictions are not being followed and that unions have been making illegal contributions to political campaigns.

We will also hear from two witnesses who will detail why they believe the nation's largest union, the National Education Association, has not complied with the laws that govern it. We will also hear from the General Counsel of the National Education Association, who I assume will tell us that the NEA is in compliance with our laws.

The Subcommittee is composed of diverse individuals who hold very different views on the issues that come before us. Despite our differences, we have one thing in common. That is our oath of office to uphold the Constitution and the laws of the land. We may disagree on what our laws should be, but I trust we all believe that our laws should be enforced.

What frustrates me most about the issue before us is the lack of law enforcement in this area. It seems to me that in Washington we often forget about the ordinary

worker and his and her individual rights. This is especially true when it comes to their rights with regard to unions. In 1959, the Congress passed the Landrum-Griffin Act. In the forty some odd years, administrations of both parties have failed to enforce the Act. It seems that administration after administration has acted as if the Congress had its fingers crossed when it passed the Landrum-Griffin Act; that the Congress did not really mean it when it passed laws making unions legally accountable to their members.

This lax, or non-existent, enforcement of the laws governing unions has created an atmosphere similar to what existed during prohibition. During that infamous era, speakeasies operated openly and were run by organized crime, which became a powerful force in our society because of the government's refusal to enforce the law. Today, according to Steve Greenhouse the labor reporter for New York Times, unions have been hit by a "wave of corruption." We all know that the largest union in the AFL-CIO, the Teamsters Union, was subjected to a money- laundering scheme that involved the AFL-CIO and its Secretary–Treasurer Richard Trumka.

Recently, we have found out that members of the Executive Council of the AFL-CIO, who also served as directors of Ullico, enriched themselves to the tune of over six million dollars through insider stock profits at the expense of union members and pensioners.

Ours is a country of laws and not one of privileged special interests that are above the law. I will continue to hold such hearings until the Federal government starts enforcing the laws and the unions start obeying them as a matter of course.

With that said, I will turn to my colleague from New York, Mr. Owens, for his opening statement.

## *APPENDIX B - WRITTEN STATEMENT OF KATHLEEN KLAMUT, MOGADORE, OH*

## STATEMENT OF KATHLEEN KLAMUT

**Hearing on**
**"An Assessment of the Use of Union Dues for Political Purposes: Is the Law Being Followed or Violated?"**
**House Committee on Education and the Workforce**
**Subcommittee on Workforce Protections Hearing**
**Thursday, 20 June 2002**

Chairman Norwood and Members of the Committee:

I am a school psychologist. I am employed by the Ravenna City Schools in Ohio. Because I work in an agency shop state, I can be forced to subsidize the union and all of its affiliates through a forced unionism provision in the collective bargaining agreement between the school and the union.

Ohio school districts are represented in collective bargaining by local union affiliates of the Ohio Education Association (the "OEA"), which is a state affiliate of the National Education Association (the "NEA"). The NEA's Resolution I-12 supports family planning, including the right to reproductive freedom, which are code words for abortion on demand. My faith will not permit me to support an organization that promotes abortion. I therefore cannot support the union without violating my conscience. The union promotes other objectionable causes as well, but their position on abortion is the most offensive.

In 1997, union officials with the Ohio Education Association refused my request for religious accommodation. The union's proposed accommodation was to send my money to a union-controlled organization (Carpenter/Garcia Fund). Otherwise, the union informed me, it would refuse to honor my status as a religious objector. My faith prevents me from financially supporting the union and its affiliates. It does not matter which pocket the union puts the money in. After a two-year struggle, the Equal Employment Opportunity Commission (the "EEOC") negotiated an agreement with a local union under which I would have an amount equal to union dues paid to the American Cancer Society.

The problem resurfaced when, in the fall of 2001, I changed jobs and began working for the Ravenna City Schools. I once again was required to join or pay fees to another NEA local union affiliate, the Ravenna Education Association (the "REA"). In September 2001, I notified the REA of my religious beliefs and the prior EEOC settlement agreement. On February 18, 2002, I spoke with the president of the REA, Jacquelyne O'Connor, and again requested a religious accommodation.

On February 26, 2002, I received a letter from OEA representative Beth Chandler-

Marks. She informed me that the OEA, not the REA, would be handling my request. Ms. Chandler-Marks wrote to inform me that the previously negotiated settlement was not legally binding. I followed up with letters to O'Connor, Chandler-Marks and Christopher Lopez (the OEA General Counsel) on March 20, 2002, in a further attempt to obtain a religious accommodation.

One week later the OEA representative, Chandler-Marks, sent a letter to my employer threatening legal action if my employer did not confiscate the union dues from my paycheck, in violation of my religious beliefs. In a last attempt to obtain a religious accommodation, I again wrote a letter to the local president, Ms. O'Connor. I again explained my sincere Christian beliefs and requested an accommodation. I sent copies to OEA personnel, Chandler-Marks and Lopez. On May 7, 2002, Ms. O'Connor responded by letter stating the matter was in the hands of the OEA. My employer reported to me, via e-mail, that OEA representative Chandler-Marks was going to take legal action against me because of my request for religious accommodation.

Thereafter, I was sent information by the Ohio Education Association which stated I had no choice except to join the union or surrender union dues to the union. I contacted the National Right to Work Legal Defense Foundation. An attorney with the National Right to Work Legal Defense Foundation informed me that, under Title VII of the Civil Rights Act of 1964, I was allowed to observe my long held religious beliefs and pay the fee to a charity. The attorney helped me file charges with the EEOC, which are now pending.

I feel that the union's plan was simply to wear me down. The union threatens to take my job away unless I violate my religious beliefs. The union claims it has the power to do this. Maybe it does, maybe it does not. I do not know which is correct. I have to depend on people to tell me. I need to retain an attorney and possibly engage in protracted litigation. It seems that every day I have to choose between my family's economic security and the requirements of my faith. This is not right. I should be allowed to do my job without this constant hassle. I am sure many people who feel as I do, simply either pay the money or quit, rather than deal with this.

I am told that federal anti-discrimination law protects me from forced subsidy of the union where forced subsidy violates my religious beliefs. But transforming this legal right to a genuine discrimination-free work situation has been a problem. I do not expect that this will change as long as the union can choose whether it will obey the law, accede to the requirements of the law only if forced to after litigation, and force me to risk my job by asserting my right to practice my faith. It would be better if people simply did not have to pay the union if he or she did not choose to be represented by it.

Thank you for your time.

## *APPENDIX C - WRITTEN STATEMENT OF DENNIS ROBEY, DAYTON, OH*

**STATEMENT OF DENNIS ROBEY**
**Hearing on**
**An Assessment of the Use of Union Dues for Political Purposes:**
**Is the Law Being Followed or Violated?**
**House Committee on Education and the Workforce**
**Subcommittee on Workforce Protections Hearing**
**Thursday, 20 June 2002**

Chairman Norwood and Members of the Committee:

My name is Dennis Robey. I just finished my 24th year as a public school teacher in the Huber Heights City School District located just north of Dayton, Ohio. Before 1994, I was an active member of the union, the Huber Heights Education Association, the Ohio Education Association, and the National Education Association (the "NEA"). For my local union, I served as building representative and I was slated to be a strike captain for our building.

Before 1994, the union negotiated a forced unionism clause in the labor agreement between the union and the school district. This meant that every teacher in the district had to either join the union or pay his or her compulsory fees to the union. Teachers no longer could choose whether or not to support the union. Everyone had to pay at least a fee, the amount of which was determined by the union.

During the 1993-94 school year, I read an NEA publication entitled "Deceptions by the Radical Right Against the National Education Association." The union placed the publication in my school mailbox. As I read the publication, I decided that I needed to look further into what the union stood for. That led me to read the NEA's resolutions published in NEA Today, an NEA publication. As I read each resolution, I found myself in disagreement, for religious reasons, with stands taken by the union.

At that time, I subscribed to Teachers in Focus, a magazine for teachers. The magazine contained a short article stating that, under federal law, teachers could request a religious accommodation and send their union dues to a non-religious charity. I thought this would resolve my dilemma. Therefore, I sent a letter requesting a religious accommodation. I heard nothing from the union in response, not even a rejection letter.

After learning more about religious accommodation, by letter dated January 3, 1996, I again requested a religious accommodation, this time for the 1995-96 school year. In the letter, I listed many of the union resolutions that conflicted with my religious beliefs and also explained why these positions were in conflict with The Bible, and hence, my faith. Two weeks later, I received a letter from the union granting me a religious accommodation, but it took until May 24 for the union to

agree upon a charity. The union started taking money out of my paychecks at the end of January and, according to its own information, placed my money in an interest-bearing account. The exact amount deducted from my paychecks was forwarded to the charity at the end of June. No interest was included.

The next two school years, 1996-97 and 1997-98, I followed the same procedures. In 1996-97, the money that was deducted from my paychecks was not sent to the charity until nine months after my request for an accommodation. In 1997-98, it took eight months. In both years, no interest was paid to the charity.

The fifth school year, 1998-99, I tried to follow the same procedures that had worked the three previous years. I sent my letter on January 4, 1999. The union responded on March 5. This time, instead of receiving a letter granting religious accommodation, the union sent me a letter with an "official" form that I was to fill out and return within seventeen days. The letter stated the form was "in accordance with Ohio Revised Code Chapter 4117." The form was titled: REQUEST FOR RELIGIOUS ACCOMMODATION. It required me to indicate or provide the following:

> (8246) my religious affiliation;
>
> (8247) the name, address, and telephone number of my place of worship;
>
> (8248) the specific religious beliefs and doctrines that support my request for an accommodation, along with documentary evidence;
>
> (8249) the specific local, district, OEA, and/or NEA policies, procedures, and/or resolutions from which I sought accommodation, along with documentary evidence;
>
> (8250) a description of how the specified education associations' policies, etc., conflict with my specific religious beliefs; and
>
> (8251) a signature from my pastor or other religious official.

Please understand that my letter requesting a religious accommodation already

provided all of the requested information, albeit it did not provide a religious official's signature. When I read the Ohio Revised Code Chapter 4117, there was nothing in that law that required any proof of religious conviction and no mention of any required form. I did, however, complete the form with an addendum letter, included my pastor's signature, and returned it to the union on March 17.

As the end of the school year approached, and having heard nothing from the union, on May 27, I called the union. Mr. Lecklider, a union lawyer, told me that it would be another 30 or so days before the letters of accommodation would be sent. By June 11, all of the union dues for the year had been deducted from my paychecks. Over two months after my first phone call, I still had heard nothing, so I called again on August 9. I was told that Mr. Lecklider was not in and if I would leave my number he would call back. That happened again and again through the summer and into the fall. I made eleven telephone calls to the union between May and October of 1999, and I still did not know if the union would grant me a religious accommodation. The new school year was already two months old.

In the first week of December, I wrote a letter to both the school superintendent and the local union president explaining the situation and asking them if there was anything they could do to speed the process. Neither person replied to my letter. At that point, I sought legal advice from an attorney with the National Right to Work Legal Defense Foundation. In late December of 1999, with the assistance of my attorney, I filed a claim against the union with the Equal Employment Opportunity Commission.

In the first week of January 2000, it was once again time to request religious accommodation for the then current school year, 1999-2000. As I composed the letter and filled out the same form, I thought it was quite wrong that I did so without even knowing if the previous year's request would be granted.

Finally, on February 10, 2000, over thirteen months from the time of my initial request, I received a letter from the union granting me a religious accommodation for the 1998-1999 school year. On March 8, 2000, over fourteen months from the time of my request, the union sent the money deducted from my paychecks to the charity with no interest. This same laborious process was repeated in the following years. I had to fill out the "official" form. It was approximately six months until the accommodation was granted and nine months until the charity was paid. I filed another charge against the union with the EEOC for the 2000-01 school year.

Every year, I have had to request the religious accommodation and then wait. The whole time that I have waited, the union has had the use of my money to support causes that are contrary to my religion. These are the types of delays, and the hoops that I have had to jump through, that have become common to those requesting a religious accommodation from the union. My attorney at the National Right to Work Legal Defense Foundation informs me that there are many other teachers who have had the same problems.

The question of what I am religiously opposed to, and why, still needs to be answered. First, I am a Christian. That does not mean that I am perfect -- far from it. It simply means that I am a sinner saved by the grace of Jesus Christ. It also means that I should use God's Word, The Holy Bible, as my foundation, in all that I do, say, or think. If God's principles, as found in The Bible, indicate that something is wrong, then it is wrong. If God's principles, as found in The Bible, indicate that something is right, then it is right. Who am I to argue or disagree with God, the creator of this universe? Granted, some things are hard to discern, but that is where study, prayer, and the Holy Spirit come into play.

Having said that, I find that the union's support for abortion, homosexual rights, and the erosion of parental rights is in direct opposition to the Word of God. First, the 2000 NEA Resolutions included seven different resolutions that in some way supported the abortion industry. The word abortion is never used but terms such as the right to reproductive freedom, birth control and family planning, and comprehensive school-based clinics are used. Those who deal with this issue recognize the meanings of those phrases. Second, the 2000 NEA Resolutions included fourteen different resolutions that supported the granting of special status to homosexuals, teaching about diversity of sexual orientation or additional rights to domestic partners. Third, the 2000 NEA Resolutions included at least eight resolutions that in some way erode the rights of parents to instruct their children as they see fit. One resolution provides for "completely confidential" counseling regarding abortion and sexuality – designed specifically to shut parents out of the loop on these critical family issues. Oddly, another NEA resolution calls for immediate notification of parents of students suspected of drug or alcohol abuse, which makes good sense, but cannot be squared with the NEA's policy of secrecy when it comes to other important family issues. The Bible clearly speaks to all three of these issues. In each case, the union is in opposition to God's Word.

I am proud to be a teacher, but I can no longer support or be associated with an organization that attacks the very values that arise from my faith. To quote a past United States President and one of our founding fathers, Thomas Jefferson,

> To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves is sinful and tyrannical.

All these years I have faithfully objected, jumped through all the union's hoops, and paid the money which ultimately went to charity. I have also pursued the legal channels to try to protect my rights. It has not been easy and it has been a distraction for my work – which is to teach students – and my family life. Like Thomas Jefferson, I pray for the day when this type of tyranny will end and employees will not be forced to support labor unions (or even charities).

Thank you for allowing me to share this experience with you.

## *APPENDIX D - WRITTEN STATEMENT OF FRANCIS MARTINEZ, REPRESENTING THE SERVICE EMPLOYEES INTERNATIONAL UNION (SEIU) LOCAL 32BJ, NEW YORK, NY*

**Testimony of Francis Martinez**
**Representing the**
**Local 32BJ, Service Employees International Union (SEIU)**
**Before the U.S. House of Representatives**
**Subcommittee on Workforce Protection**

**June 20, 2002**

Chairman Norwood, Congressman Owens, and committee members. Good morning. My name is Francis Martinez. I am honored to be here today to talk about my union, SEIU Local 32BJ.

I worked as a maintenance worker at the World Trade Center for five years, two as a vacation replacement and three as a permanent employee. Because of my union, I feel I have support on the job by people who will fight for me. For a single woman, this is extremely important.

My union represents 70,000 residential and commercial building service workers in New York, New Jersey, and Connecticut. They work as office cleaners, superintendents, porters, window cleaners, janitors, security personnel and handymen.

We come from all over the world and speak more than two dozen languages. Many members are new immigrants who came to this country, like so many before them, in search of a better life for themselves and their families.

Like all unions, 32BJ works hard to build solidarity in our industry and get the best wages and benefits, which would not be possible without collective, concerted activity, including being involved in state local, and obviously based on my appearance today, federal politics.

Our union's political activities are necessary, because if we are not involved and do not have a voice in the political process, we can not fully share in the American dream of building a better life for ourselves and our families.

We may be invisible in our work; as janitors we are rarely if ever noticed by the building occupants whose toilets we clean, and wastebaskets we empty. But we will not be invisible in the American political process.

We support candidates who will fight for legislation to protect workers on the job and help build our communities as well.

We hope that our two major legislative initiatives – the Displaced Worker

Protection Act and the Living Wage Bill – will establish new standards for building service workers, and improve on our union's success at the bargaining table.

Members like me are volunteering their time and energy to make sure these bills pass and that we elect politicians who care about working families.

We also support candidates who fight for better schools, more affordable housing, immigration reform, and other important issues for workers and their families.

My union was very active in last fall's elections in New York and New Jersey.

Our union members and their families volunteered to educate union members, register members to vote, and encourage them to vote. I'd like to show you the t-shirt volunteers wore during campaign season.

It says: "It's our city. It's our future."

That sums up the sentiment of members who got involved in my union's political activities – we have a stake in our communities, and we will be heard.

In November, candidates we supported won, and lost, key races in New York City, New Jersey and Connecticut.

I am very proud of our efforts, and what we achieved together.

You may recall that September 11 was the New York City primary election. On that day, 32BJ lost 24 friends and fellow union members in the attacks on the World Trade Center.

On September 11, I was not scheduled to be at my post on the 107th floor observation deck at the Trade Center. Had I been at work, I doubt I would be here today sharing with you my union's continuing success in the wake of our nation's collective tragedy.

In addition to those who died, more than 1,000 members – including myself – lost their jobs.

My union's leadership reacted quickly and acted compassionately to assist both the families of the deceased as well as those of us whose jobs vanished that day.

My union was able to strike a deal with our real estate industry employers to provide supplemental unemployment pay and health benefits for all members affected by the attacks.

This meant that between New York State unemployment, and the assistance provided by the union and management, those of us displaced by the attacks

received our usual take-home pay and our health benefits. Unlike so many other workers who lost their jobs because of the aftermath of September 11.

More importantly, my union -- through its cooperative employer relations -- created an early retirement program that allowed older workers to retire and let those of us who lost our jobs, because we lost our buildings, the World Trade Center, to work in other buildings.

My union and its employer community agreed to use a preferential hiring list of workers displaced by the World Trade Center attacks when filling new jobs.

We also received the counseling and support we needed to get on with our lives after our loss of friends and union family members and our jobs.

And, most importantly, my union seized every opportunity to call attention to the condition of low-paid workers who lost their livelihood because of the attack on our city and nation. We even created a temporary assistance center to help World Trade Center victims, where I had the opportunity to work side-by-side with the Red Cross and other people helping immigrant workers.

No other labor union that I know of took care of its members in this manner. We – the janitors, window washers and private security guards – were helped by our union. Not by government -- but by our union.

We are a union family, and I am proud to say that our union family helped our injured members and the families of the deceased. Can I ask you, as Members of Congress: What did Congress do to help working people like me?

Did Congress pass dislocated workers' reimbursement for health benefits they lost?

Did Congress increase the weekly benefits workers receive from unemployment?

That is exactly why we, low-wage workers, who don't have an individual voice and can't afford to contribute a lot of money, contribute individually by pooling small amounts so we can participate.

I pay monthly union dues, and contribute voluntarily to our political education fund (COPE). A very small percentage of my dues helps me and my union be part of our political process.

My international union, SEIU, represents 1.5 million workers. We have as much right to be engaged in politics as corporations and wealthy Americans who can write big checks.

But, involvement in the local, state and federal political process is democratic at the local union level. Our union is now more open then ever, and we are becoming

more involved than ever.

Participation in politics is what helped all of us rank-and-file members fight for– and WIN – extended unemployment insurance and other benefits for working people affected by September 11.

A delegation of union members traveled here to Washington late last year with a number of Local 32BJ members, visiting senators and members of congress and sharing our concerns with them. In February, I testified before New York's bipartisan congressional delegation on the needs of displaced workers. This hearing was organized by the AFL-CIO and my union.

My union used union dues to build a political program. This expenditure was approved by our Executive Board and reported to the entire union members in our magazine, which I have brought with me today.

Because of my union membership I am here today, representing my union. I am proud to participate in the democratic process, not just as a member of my union but as a citizen of this nation.

My union has given me – and every member who wants to be involved – the opportunity to help ourselves, not just at the bargaining table, but as active, engaged individuals committed to fighting for a better life for all working people and their families.

We will continue to speak, and we will be heard.

Thank you for your time. It is indeed an honor to appear before you, and share what one person can do, as a union member.

Thank you.

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***APPENDIX E - WRITTEN STATEMENT OF DOMINICK BENTIVEGNA, ELECTED ASSISTANT SECRETARY, SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 32BJ, ACCOMPANIED BY PAUL PAMIAS, SHOP STEWARD, LOCAL 32BJ NEW YORK, NY***

**Testimony of Dominick Bentivegna**
**Brooklyn, New York**

Good morning Congressman Norwood and fellow Committee members. I would like to express my thanks for the invitation to speak today on such an important issue.

My name is Dominick Bentivegna, I am the elected Assistant Secretary and a proud member of Local 32BJ for 15 years. The first 12 years I was a doorman. The last 3 years I was on staff at Local 32BJ headquarters located New York City. I first worked as an organizer, and was promoted to assistant supervisor and then to supervisor where I was responsible for 6500 members. Recently I was fired from that position because of my announced candidacy for 32BJ President.

I strongly believe in Union Democracy and a Non Partisan, member driven political program. So much so I continue to contribute to COPE, the Committee On Political Education. Unfortunately in our Local Union, this is not the case.

For example:

At an executive board meeting in June 2001, our President Michael Fishman told us we were going to borrow from our General Treasury, which is funded by members dues, 2 payments of $300,000 each. This money was to go to the COPE Fund and then distributed to the Green campaign as well as other campaigns. Some executive board members as well as myself questioned the legality of this arrangement. We were assured by Larry Engelstein who holds the titles of General Counsel and Chief of Staff, that this was legal. Michael Fishman and Larry Engelstein explained we would payback this loan from the General Treasury with next years incoming COPE money.

I regret not questioning this further; I knew there was a good chance that we would not be able to collect $600,000 from the members, as voluntary COPE contributions.

In November 2001, The Manhattan District Attorney issued subpoenas demanding documents relating to the Mark Green and other campaigns. This investigation was prompted by a letter sent to the District Attorneys office by Paul Pamias, a shop steward with Local 32BJ, who has accompanied me today. The day after the subpoenas were issued Larry Engelstein and Michael Fishman gathered the staff and downplayed the significance of the event. At a subsequent Officers Meeting, I asked Michael Fishman about the "loan" He then amazingly explained that there was never a loan; it was now a "reallocation of the budget."

At the next Joint Executive Board meeting, Neil Scotti, a Rank and file board member, insisted that Mr. Fishman explain how our political money was being spent. I found his answer vague but here it is. "Money comes from the member into the COPE Fund as Hard Money. We then send it to our international Union in Washington where they take their cut. It is then sent back to our treasury to be used as soft money." Mike Fishman and Larry Engelstein may say this is legal, the fact that the membership knows nothing of this and did note vote on it is unacceptable.

Maybe the most offensive aspect of all of this was the abuse of the union staff, from many departments. The staff was forced to take personal days and vacation days to campaign for Mark Green. If they had no days left, they were forced to borrow against next years.

The staff whose salaries are paid for by the members dues was responsible for recruiting rank and file members and were told they had to reach a certain quota. They were also responsible for leafleting subway stations and phone banking during hours that should have been dedicated to serving the members.

Ironically, the staff that worked so hard on these campaigns were denied their right to physically vote and told to fill out absentee ballots.

It has become very clear to me that we have a long uphill battle to improve the democratic rights of the rank and file. We need a Labor Management Reporting and Disclosure Act with teeth and an Office of Labor Management Standards with greater investigative powers.

I close thanking the many 32B-32J members who continue to support me in spite of my termination. My loyalty has always been to the rank and file members of Local 32B-32J and the member driven Labor movement. I look forward to serving them again in the future.

***APPENDIX F - WRITTEN STATEMENT OF BOB WILLIAMS, PRESIDENT, EVERGREEN FREEDOM FOUNDATION, OLYMPIA, WA***

# THE USE OF MANDATORY UNION DUES FOR POLITICS
# LESSONS FROM WASHINGTON STATE

**written testimony by**

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**Presented to**

**The U.S. House of Representatives**
**Subcommittee on Workforce Protections**
**Charlie Norwood, Chairman**

**June 20, 2002**

**THE USE OF MANDATORY UNION DUES FOR POLITICS**
**Lessons from Washington State**

June 2002
Bob Williams

Mr. Chairman and distinguished Members of the Committee, I am Bob Williams, President of the Evergreen Freedom Foundation, a state-based research group in Washington state. Prior to becoming President of the Foundation, I served as a Certified Public Accountant, a government auditor for GAO, and I spent ten years in the state legislature.

I sit before you today because, seven years ago, teachers came to our door pleading for help. They wanted their union to stop taking money from their paychecks to pay for union politics against their will.

Seven years later, we have read more than 60,000 internal teacher union documents and have spent more than a million dollars in court. Our investigation has led to two lawsuits filed against the teacher union by our state attorney general, a Superior Court ruling of intentional and willful violation of teachers' rights, and more than a million dollars in penalties against the union, including the repayment to teachers of more than half-a-million dollars (Attachment 1).

And after all of this, we say: What the teacher union does to its members may be the last *institutionalized* civil rights violation remaining in our nation.

What we have uncovered substantiates that the National Education Association and its state affiliates are the most powerful political force in America today (Attachments 2 and 3). They have operations most political parties would envy: voter identification programs, voter lists and get-out-the vote efforts organized right down to the precinct level. They build strategic political plans and sit as a majority voice on decision-making committees for numerous ballot measures and candidates; they bankroll levy and initiative campaigns and organize to elect or defeat candidates at nearly every level of public office. I have documentary evidence to substantiate what I just said, but it is subject to a protective order. To fully grasp the depth of union politicking, you must subpoena the documents and records we have.

There would be nothing inherently wrong with this political machinery except for one thing: It is paid for from ***automatic*** and sizable annual deductions from teachers' paychecks. Union officials say most of the paycheck withdrawals are made for collective bargaining and related purposes. This is simply untrue.

I want to make it clear that we do not object to the teacher union being involved in politics. As long as education policy emanates from Congress and our state houses, the union must have a voice and a presence. And we are not disputing legitimate lobbying activities. But straight-forward politicking should be paid through voluntary contributions.

In Washington state, 91 percent of teachers refuse to voluntarily support the union's political action committee (Attachment 4), so the Washington Education Association, like other state affiliates of the NEA, uses mandatory dues.

You might be thinking that legal protections have been put in place to help these employees. That's what we used to think.

For each of the 75,396 members of the NEA state affiliate, $683 in wages is automatically withheld as "dues" every year. Based on our investigation, not more than 20 percent of these dues are actually used for legitimate, chargeable union functions, such as collective bargaining, maintenance of the contract and grievances (Attachment 5).

This means *one union in one state has more than $80 million to spend per two-year election cycle* (Attachment 5). This is about 10 times the amount spent by Republicans and Democrats in our state in the same period. But political parties receive their donations from ***voluntary*** sources, whereas the teacher union uses ***mandatory*** dues taken automatically from its members' paychecks.

Of the $683 deducted from teacher paychecks in Washington state, the NEA takes $126 per member per year. Yet, under oath in an arbitration hearing last year, an NEA representative was unable to identify a single direct service the union provides to individuals. My examination of the union books indicated that virtually everything the NEA did was political.

In November 2000, Robert Chanin, NEA General Counsel best summarized this situation when he said, "So you tell me how I can possibly separate NEA's collective bargaining from politics – you just can't...It's all politics."

O.K., so it's all politics. Then should teachers or any other union employee be *forced* to support the political choices and decisions made by its union? Don't teachers have a right to their own political voice? Well, not in practice, if they belong to the union.

Which brings us to the next point. What are teachers' options? (Attachment 6)

A teacher can become a religious objector, ***if*** union lawyers decide that his or her answers to invasive, personal questions qualify them for this exemption. These teachers can have their dues money sent to a charity, ***if*** the union approves of the charity.

Or, if a teacher desires to remain a union member, but disagrees with mandatory political paycheck assessments and political expenditures, that teacher can become an agency-fee payer. But he or she still pays almost exactly the same amount of dues. And though the teacher pays almost the same in dues, he or she loses 1) their right to vote on union issues, 2) the ability to run for a union office, ***and*** 3) their liability insurance.

Then, if the agency-fee payer teachers object to the union's calculations about how much of their union dues were spent on politics, the union holds an arbitration hearing, which is little more than a kangaroo court set up to intimidate and embarrass teachers (Attachment 6).

**Why does this occur?** Because union officials want political power, and they really have nothing to lose and everything to gain. First, there is little chance that the union will be caught engaging in illegal practices. There is an even smaller chance that they will be prosecuted if they are caught.

And even if this does occur, if union officials break the law and are caught and fined, the money to pay the fines won't come out of the union leaders' sizeable paychecks. Instead the penalties will be paid from members' paychecks, whose average salary is one-third to one-half that of their union bosses' salaries.

That means teachers, whose money was used without their consent in the first place, have to fork over more of their paycheck to pay the fines and court costs of the illegal actions by their union leaders.

Fines are just considered a cost of doing business for union officials. Using ill-gained funds from teachers increases the political power of the union bosses. And it's not hard to buy political power when you have direct access to the paychecks of 2.6 million hard-working American citizens, no scruples about helping yourself to their money, and the perfect alibi: "It's for teachers and children," they say.

The response of the teacher union to dissent has been chilling. They have resorted to name calling, misrepresenting teachers to colleagues, sent them threatening letters, and have even sued dissenting teachers. The Washington Education Association has sued our Foundation, taken out full-page ads against us in our state's major papers, and has sent out a directive to research our staff, our staff's families and our families' activities.

Again, much of the documentary evidence you need to see to substantiate my claims of the depth and breadth of the teacher union's political activities is subject to a protective order. You will have to subpoena these records.

Our experience compels us to ask Congress to consider five points before making any decisions. These points are listed in Attachment 7 in the information folder you have in front of you.

Robert Chanin, NEA General Counsel, once said in U.S. District Court, "It is well-recognized that if you take away the mechanism of payroll deduction, you won't collect a penny from these people, and it has nothing to do with voluntary or involuntary. I think it has to do with the nature of the beast, and the beasts who are our teachers....[They] simply don't come up with the money regardless of the purpose."

Well, he's entitled to his opinion, but we ask instead that you to review our brief request. We need to protect and honor the paychecks and political voices of some of the most important people in America – our teachers.

Thank you.

Submitted by
Bob Williams
President of the Evergreen Freedom Foundation

***APPENDIX G - WRITTEN STATEMENT OF ROBERT H. CHANIN, GENERAL COUNSEL, NATIONAL EDUCATION ASSOCIATION, WASHINGTON, D.C.***

**TESTIMONY OF THE NATIONAL EDUCATION ASSOCIATION**
**BEFORE THE**
**COMMITTEE ON EDUCATION AND THE WORKFORCE**
**SUBCOMMITTEE ON WORKFORCE PROTECTIONS**
**U.S. HOUSE OF REPRESENTATIVES**

**June 20, 2002**

Chairman Norwood and Members of the Subcommittee:

My name is Bob Chanin, and I am General Counsel for the National Education Association ("NEA"). Inasmuch as the activities of NEA and its affiliates appear to be the focus of today's hearing – and indeed a continuing preoccupation of the other organizations that are represented, the Landmark Legal Foundation ("LLF"), the Evergreen Freedom Foundation ("EFF"), and the National Right to Work Legal Defense Foundation, Inc. ("NRW") – I particularly appreciate this opportunity to set the record straight.

Let me begin by noting a disconnect between the topic of today's hearing – "An Assessment of the Use of Union Dues for Political Purposes" – and the recent criticism of NEA by EFF and NRW. As I will explain in a moment, that criticism is not over the use of union dues which are paid to us by those employees who voluntarily choose to become members of NEA. It has to do with the use of agency fees – which are paid to us pursuant to law by those employees who exercise their right *not* to join our organization.

Having pointed out the basic distinction between NEA membership dues and agency fees, let me also make clear one thing that they have in common. Neither NEA dues nor agency fees are used to make contributions or expenditures in connection with elections to political office. Indeed, NEA does not even use its dues and agency fees to make so-called "soft money" contributions to national and state political parties. All such contributions and expenditures to candidates and parties are made through NEA's separate political action committee – the NEA Fund for Children and Public Education – which consists of voluntary contributions made by members separate and apart from their dues obligation.

Since the description of this hearing posted on the Subcommittee's Web site emphasized the "lack of enforcement of workers' rights under the Beck decision," it is appropriate to explain how NEA guarantees such rights to agency feepayers. Although the Beck decision itself does not apply to public sector employees -- such as NEA's members and agency feepayers -- its principles are based in large part on case law developed in the public sector. However, instead of applying to "financial core" members as does Beck, the public sector cases apply to nonmembers who pay an agency fee to the union representing them in collective bargaining.

In order to protect the rights of nonmember employees who object to paying an agency fee, NEA's accounting system tracks the hundreds of thousands of financial transactions that NEA makes each fiscal year through a variety of contemporaneous recordkeeping devices. This tracking includes employee time and expenses on a program-by-program and activity-by-activity basis. At the end of each fiscal year, dozens of NEA employees spend several weeks reviewing the transactions and categorizing them as "chargeable" or "nonchargeable" to objecting agency feepayers. This categorization is based on legal principles developed over the years by courts, labor boards, and independent arbitrators. The chargeable and nonchargeable determinations are then compiled into a report, and are subject to verification by auditors from an independent public accounting firm. NEA sends the auditors' report to its state affiliates that represent agency feepayers, and each feepayer receives the report along with similar documentation from the state affiliate and the relevant local affiliate. The agency feepayers can review this information and decide if they want to object to their fees being used for nonchargeable purposes, or if they want to challenge the chargeable and nonchargeable determinations before an impartial decisionmaker -- usually an arbitrator selected by the American Arbitration Association, but in every case someone not unilaterally selected by NEA or its affiliates. In either instance, the agency feepayer would be entitled to receive a reduction in his or her agency fee. All the feepayer needs to do to trigger this procedure is mail a simple objection to the state affiliate.

This procedure has worked exceedingly well over the years. To be sure, the procedure may occasionally break down or other problems may arise, but considering NEA's tremendous size and the variety of state laws with which it must comply, such problems are few and far between.

In the limited time that I have remaining for my opening statement, I will attempt to place in context the accusations that have been leveled against NEA by the three organizations that are represented here today.

I will begin with LLF. In June 2000, LLF filed complaints against NEA with the Internal Revenue Service ("IRS") and the Federal Election Commission ("FEC"). The substance of these widely publicized complaints was the same – that NEA used dues and agency fees to pay for political activities in violation of the Federal Election Campaign Act, and that NEA failed to accurately report these and other political expenditures on the forms that it filed with the IRS.

NEA immediately contacted both the IRS and the FEC, and informed them that we would cooperate fully in dealing with the LLF's complaints -- which NEA considers to be totally without merit. Indeed, the charge that was filed with the IRS is particularly suspect, inasmuch as it came shortly after the completion of an exhaustive IRS audit of NEA in which no problems were found. The IRS and the FEC have been processing the complaints as part of their regular course of business.

Apparently dismayed by the failure of either the FEC or the IRS to take action

against NEA, LLF decided to try its luck with another federal agency earlier this year. In April, LLF filed a complaint with the Department of Labor ("DOL"), alleging that NEA had failed to adequately report its expenditures for political activity on the reports that it files annually with the DOL under the Landrum-Griffin Act. Once again, NEA is cooperating fully with DOL in the processing of this complaint, which we also consider to be totally without merit.

Having apparently run out of federal administrative agencies in which to lodge complaints against NEA, LLF has now chosen to proceed in a political forum by attempting to make its case before this Subcommittee.

Turning to EFF, it has filed a lawsuit against NEA in a Washington state court alleging that we have committed what can best be described as a technical violation of a unique provision in a Washington state statute by expending a *de minimus* amount of agency fees for political activity without obtaining the required type of authorization. NEA intends to respond to that allegation in the proper judicial forum, and it would be inappropriate to deal with the matter here.

Finally, there is agency feepayer Dennis Robey who – with the support of NRW – has filed a charge with the Equal Employment Opportunity Commission alleging that NEA and its Ohio state affiliate have failed to properly accommodate his religious beliefs. Once again, we will reserve our defense for the proper forum, and would simply note that Mr. Robey's appearance here today is particularly ironic. There is no union in the country that has devoted more effort than has NEA and its affiliates to the development and implementation of a legally sound procedure for accommodating the objections of agency feepayers – whether those objections are based on political or religious grounds. Indeed, we have worked particularly well with NRW in attempting to accommodate religious objectors – even to the point of occasionally persuading a recalcitrant local affiliate to modify its position. To confirm this, let me quote from a letter that I received several years ago from the NRW staff attorney who deals with religious objection cases and is representing Mr. Robey:

> Needless to say, . . . . I am delighted to have you jump into this litigation. Perhaps your stature with the National Education Association will have a sobering effect upon this reticent local. Furthermore, our ability to resolve many of these cases in the past, and my perception that your office has helped to pressure other NEA affiliates to agree to reasonable accommodation arrangements, may help to end the "fooling around" in this case.

Thank you again for allowing me to appear here today. I will be happy to answer any questions that you may have about my testimony specifically, or about the operations of NEA generally.

## *APPENDIX H - WRITTEN STATEMENT OF MARK R. LEVIN, PRESIDENT, LANDMARK LEGAL FOUNDATION, HERNDON, VA*

**Opening Statement of Mark R. Levin**
**President**
**Landmark Legal Foundation**
**Subcommittee on Workforce Protections**
**House Education and Workforce Committee**

**June 20, 2002**

Do the 2.7 million members of the National Education Association ("NEA") – which is the nation's largest union – know how their dues are being used? The answer is no. More specifically, do they know how much of their money is being used to influence political activities at the federal, state and local levels? The answer is no.

Does the Internal Revenue Service ("IRS") – which is supposed to enforce the Internal Revenue Code ("IRC") -- know how much tax-exempt, general revenue the NEA spends on political activities? The answer is no. Does the Department of Labor ("Labor") know how much money the NEA spends on political activities? The answer is no.

While we cannot determine the full extent to which the NEA is directly and indirectly participating in political activities, or the exact level of funding it expends in this regard, the fact that it is active in political campaigns, and spends millions of tax-exempt dollars on these activities, is beyond dispute. The evidence for this includes the NEA's own budgets, strategic plans, financial statements, accomplishment reports, handbooks, and information provided to the Federal Election Commission ("FEC") in response to subpoenas issued by that agency in the performance of an investigation.

On June 23, 2000, Landmark Legal Foundation filed a comprehensive complaint against the NEA with the IRS. The complaint provides substantial and specific evidence of the NEA's political activities and expenditures. On July 20, 2001, Landmark filed a second comprehensive complaint against the NEA with the IRS. In addition to further examples of the NEA's political expenditures, Landmark provided the IRS with significant information disclosing the close coordination of political strategy and expenditures among the NEA, the Democratic National Committee ("DNC"), other Democratic organizations, the 1996 Clinton-Gore campaign, other Democratic candidates, the AFL-CIO, and Emily's List.

I have attached Landmark's complaints against the NEA, including additional related complaints filed with the IRS, FEC and Labor, to my written statement. I would also request that the exhibit books Landmark provided to these agencies as attachments to the complaints be included in this Committee's record as they provide voluminous evidence of the NEA's political activities and expenditures.

Some examples of the NEA's political expenditures included:

In its 1998-2000 Strategic Plan and Budget, the NEA's strategic priorities include:

- $350,000 for "cyberspace advocacy systems developed and maintain on the NEA and state affiliate Web sties that mobilize Association members and the public in support of pro-public education legislation and candidates at the state and federal level.

- $386,000 for "organizational partnerships with political parties, campaign committees, and political organizations representing elected officials at the state and national levels strengthened, increasing legislators' commitment to support public education on a bipartisan basis."

- $540,000 over two years for development of a "national political strategy ... to address issues such as congressional and legislative reapportionment and redistricting, campaign finance reform, candidate recruitment, independent expenditures, early voting, and vote-by-mail programs in order to strengthen support for pro-public education candidates. ..."

-The 1998-1999 NEA Interim Financial Statements, prepared by NEA auditors, reported an actual expenditure of $3,026,212 through April 30, 1999 for "Increased and lasting bipartisan political advocacy support." Moreover, the NEA budgeted an additional $2,033,650 for the remaining four months of the fiscal year ending on August 31, 1999.

-The NEA's 1996 Strategic Focus Plan included:$9.6 million to "build bipartisan constituencies among those running for and elected to public office to support public education." Activities designed to accomplish this objective included: "Screening candidates for federal office; conducting political surveys for candidate evaluation; mobilize members and other resources... to support the election of pro-education candidates and ballot measures; provide technical assistance, surveys, and training in political campaign work to affiliates and member at all levels; identify and evaluate new/innovative ways to effect election results, such as mail ballot early voting, term limits on state elected officials, etc.; cultivate working relationships with Democratic and Republican parties."

Some examples of the NEA's coordination activities include:

-The NEA's Strategic Plan and Budget for fiscal years 2000-2002 indicates an allotment of $1,993,735 for "[a] coordinated state-specific campaign developed and implemented to elect bipartisan pro-public education candidates in the 2000 general election."

- In 1995 and 1996, a group known as the "National Coordinated Campaign Steering Committee" ("Steering Committee") met between six and eight times for the purpose of planning the coordinated campaign. The Steering Committee met at DNC headquarters in Washington, DC; in New Orleans, LA; in August of 1995; and in Chicago, IL, during the time of the Democratic National Convention (August 26-29, 1996). Attendees included representatives from the NEA, DNC, the Democratic Congressional Campaign Committee ("DCCC"), the Clinton/Gore '96 Primary Committee and the Clinton/Gore '96 General Committee, and EMILY's List.

-During 1996, an extensive Coordinated Campaign operated in the state of North Carolina with the goal of electing Democratic candidates. The Coordinated Campaign provided services such as voter registration activities, early vote programs, staff training, and voter canvassing at the state and local levels.

- A statement from the Etheridge for Congress Committee, which participated in the Coordinated Campaign, demonstrates the extent to which the NEA participated and coordinated political activities:

*When the draft plan is initialized in the state, it is forwarded to the DNC for review. If the plan meets the DNC's specifications, it is shared with the National Coordinated Campaign funding partners at the AFL-CIO, NEA, Emily's List (in targeted states), and the other national campaign committees for review. When the DNC and it's* (sic) *national partners, including the DSCC/DCCC/DGA/LCC, the AFL-CIO and the NEA agree on the contents of a plan, each national partner will give their funding commitment to the state.*

The NEA and its state affiliates are 501(c)(5) tax-exempt organizations. Each is required to file a Form 990 tax return. The instructions accompanying the Form 990

require explicitly that certain political expenditures must be reported by exempt organizations. The instructions state, in part:

> *Line 81 Expenditures for political purposes-*
>
> *A political expenditure is one intended to influence the selection, nomination, election, or appointment of anyone to a federal, state, or local public office, or office in a political organization, or the election of Presidential or Vice Presidential electors. It does not matter whether the attempt succeeds.*
>
> *An expenditure includes a payment, distribution, loan, advance, deposit, or gift of money, or anything of value. It also includes a contract, promise, or agreement to make an expenditure, whether or not legally enforceable.*

The NEA is permitted to engage in political activity, as defined by IRC 527(f) (and set forth in the instructions to Line 81, above), if all such political expenditures and activities are fully accounted for and reported to the IRS as taxable income. Despite overwhelming and indisputable evidence that the NEA is involved in these activities, it has reported to the IRS, since at least 1994, that it has made no such political expenditures.

And despite the fact that all this information has been provided to the IRS, NEA spokesperson Kathleen Lyons has stated publicly that the NEA has yet to receive an audit letter from the IRS.

Nearly two years ago, Landmark asked Edward Coleman, former chief of the Exempt Organizations Division at the IRS – which oversees and enforces compliance with the IRC by tax-exempt organizations – to review Landmark's June 23, 2000 complaint and supporting exhibits. I have attached Mr. Coleman's memorandum to my written testimony. However, I believe it's useful to provide the Committee with some excerpts for this hearing. Mr. Coleman wrote, in part:

> *You allege that the NEA's political guidebooks provide evidence of a systematic strategy to integrate political action in all aspects of union organizations, rather than segregate those activities from general operations.*
>
> *Based on my analysis of the political guidebooks and workshop material ..., it appears that NEA engaged in political activities, the cost of which should have been*

*reported as political expenditures on line 81a of its Form 990.*

---

*Your complaint states that among NEA's Program Accomplishments was*

*the apparent expenditure of millions of dollars to promote and support candidates for public office. However, none of these expenditures were reported on line 81a of NEA's Form 990.*

*My review of this allegation ...supports your conclusion that NEA had reportable political expenditures.*

---

*Your complaint sets forth nine other examples of alleged reportable political activity.*

*These examples certainly raise the question of political expenditures that should have been reported on the NEA's Form 990.*

---

Mr. Coleman concluded:

*... I concur with your analysis of NEA's alleged political expenditures and your recommendation of an IRS examination of the NEA. NEA certainly appears to have filed inaccurate Forms 990 and neglected to pay taxes on Forms 1120-POL.*

On August 7, 2001, the Associated Press published a story entitled "Unions Don't Cite Political Activities." The reporter examined documents released by the FEC, including those provided to the IRS by Landmark in its July 20, 2001 complaint. AP quoted Tom Miller, the manager of the IRS section that writes the rules for tax-exempt groups: "If you look at some of the things that have been out there publicly,

some of the (union) activities fall on that side of the line. If I was an examiner and have documents showing the purpose is to elect Democratic candidates, and they say it's not partisan, it shifts the burden to them."

The situation is no better at Labor. The purpose of the Landrum-Griffin Act ("Act") was to empower union members by providing them with access to financial information relating to their union's affairs. Union members would then be able to question certain practices and hold their leaders to account.

The Act requires unions with total annual receipts of $200,000 or more to submit a Form LM-2. The financial information – receipts and expenditures -- provided on the Form LM-2 must be "in such detail as may be necessary accurately to disclose its financial condition and operations for its preceding fiscal year and in such categories as prescribed by the Assistant Secretary." 29 C.F.R. Sec. 403.2(b) (2001).

The NEA's political activities are widespread and pervasive. Yet, the NEA's Form

LM-2s, going back to at least 1994, don't reported a single dollar spent on political activities – not under Schedule 12 (Contributions, Gifts and Grants), Schedule 13 (Office and Administrative Expense), or Schedule 15 (Other Disbursements). And what's clear is that the NEA has chosen to interpret the reporting requirements under each of these schedules as broadly as possible so as to avoid disclosing its political expenditures to its membership.

In conclusion, the most diligent NEA member cannot discern how much his union engages in, or how much of his union dues are being spent, on political activities. The most logical places for him to look for this information are the IRS and Labor. But the NEA's public filings with these departments won't be of any help because neither the Internal Revenue Code nor the Landrum-Griffin Act are being enforced.

***APPENDIX I – SUBMITTED FOR THE RECORD, STATEMENT OF CONGRESSWOMAN HILDA SOLIS, SUBCOMMITTEE ON WORKFORCE PROTECTIONS, COMMITTEE ON EDUCATION AND THE WORKFORCE***

HILDA L. SOLIS
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Hilda L. Solis

**STATEMENT OF CONGRESSWOMAN HILDA L. SOLIS**

**WORKFORCE PROTECTIONS SUBCOMMITTEE HEARING ON "AN ASSESSMENT OF THE USE OF UNION DUES FOR POLITICAL PURPOSES"**

**JUNE 20, 2002**

Today, the Subcommittee will hold its third hearing on so-called *Beck* rights since I came to Congress a year and a half ago. I am concerned that the majority has decided to repeatedly address this particular issue while workers across our nation continue to confront many other significant challenges in the workplace.

My friends on the other side of the aisle say this hearing is about workers' rights. I strongly disagree with this assertion. Workers' rights entails protecting the livelihoods of hard working Americans, ensuring safe and healthy conditions on the job, accessing affordable health care services, and having a seat at the table with corporate decision-makers. Workers' rights is not about attacking the legal rights of workers to join unions or not to. And it is not about silencing the very people who need the most help in getting their voices heard at all levels of government.

While this Subcommittee evaluates *Beck* rights again, workers around the country face staggering resistance from employers when they demand fair wages and benefits for their services. This very morning, prior to this hearing, I participated in a briefing about the enormous hurdles that workers experience in asserting their legal right to form a union. For example, twenty-five percent of employers illegally fire at least one worker for union activity during organizing campaigns. Seventy-five percent hire consultants to help them fight union organizing drives. And fifty-one percent threaten to close their plants if the union wins the election. Employers engage in these smear tactics to prevent workers from utilizing their legal right to win better working conditions. This is a very serious problem and one that deserves more attention. If workers' rights to unionize are threatened, so are their health and safety and their ability to support their families.

In a year that has quickly become marred by drastic mismanagement by several of our largest corporations, this Subcommittee and Congress should also dedicate more time to enacting measures to eradicate corporate misbehavior that leaves millions of employees as helpless victims. The hard working men and women who work for these companies have not only lost their jobs, but many have lost their entire retirement savings as well, all at the hands of unscrupulous corporate executives.

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As we hold yet another hearing this Congress on *Beck* rights, I am confident that the conclusion we will reach today will be the same one as previous *Beck* rights hearings: no one can be forced to join a union, and the union has to fairly represent both members and non-members exactly alike. And while non-members can be required to pay their fair share of collective bargaining expenses, they cannot be compelled to contribute to any other union activities or expenditures, as defined by the *Beck* Supreme Court decision.

I thank the witnesses for appearing here today, and I look forward to their testimonies.

Thank you.

***APPENDIX J – SUBMITTED FOR THE RECORD, LETTER FROM LARRY ENGELSTEIN, GENERAL COUNSEL, SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 32BJ, NEW YORK, NY TO CHAIRMAN CHARLIE NORWOOD, SUBCOMMITTEE ON WORKFORCE PROTECTIONS, COMMITTEE ON EDUCATION AND THE WORKFORCE, JUNE 18, 2002***

SERVICE EMPLOYEES
INTERNATIONAL UNION
AFL-CIO, CLC

**MICHAEL P. FISHMAN**
President

**KEVIN J. DOYLE**
Vice President

**HÉCTOR J. FIGUEROA**
Secretary-Treasurer

**KRYSTYNA ROSARIO**
Secretary

**DOMINICK BENTIVEGNA**
Assistant Secretary

**KYLE BRAGG**
Assistant to the President

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18th Floor
New York, NY 10013
212.539.2901

**Theater, Amusement & Cultural Division**
101 Avenue of the Americas
20th Floor
New York, NY 10013
212.388.3974

June 18, 2002

Congressman Charles Norwood
1707 Longworth HOB
Washington, D.C. 20515

Dear Congressman Norwood:

I write on behalf of Local 32B-32J, SEIU in response to inquiries by Charles Silbiger, Committee Counsel, in connection with the Committee's hearing scheduled for this Thursday, June 20, 2002.

1. As we understand it, the main topic at that hearing is Union political activities. Local 32B-32J, SEIU is proud of its active, member-driven, non-partisan, issue-based political program. At our January 2001, general membership meeting, the membership voted overwhelmingly to support our political program which is designed to secure improvements on the job and in the community.

Some 1,500 members volunteered to engage in aspects of the political process in their communities. Rank and file members participated in the candidate screening process, including several thousand who attended a New York City Mayoral forum held in Madison Square Garden in the Spring of 2001. Based on the recommendations that emerged from this process, the Local's Executive Board, without any opposition, endorsed approximately forty candidates in races throughout the Local's jurisdiction and authorized expenditures in connection with those endorsements.

We are currently working with the newly elected City Council of New York to secure passage of two key pieces of our legislative program – the Building Service Displaced Workers Protection Act, and the Living Wage Bill – minimum labor standards legislation akin to hallmark federal measures that the labor movement has fought for since its inception. Last week, more than 1,000 members rallied at City Hall here in support of these bills.

We believe that our program has been in full compliance with all applicable laws.

2. Mr. Silbiger indicated that the Committee's hearing will encompass Union compliance with the Labor Management Reporting and Disclosure Act ('CMRDA'), 29 U.S.C. 401 et seq., as well as unspecified other laws. In particular, Mr. Silbiger raised questions regarding the Union's responses to various requests to the Union for action or information made by a Mr. Paul Pamias. Mr. Pamias was an unsuccessful candidate for Local Union office in the last Union officer elections. The Department of Labor investigated and dismissed complaints of election misconduct filed by Mr. Pamias' slate. Mr. Pamias, an outspoken critic of the Local's administration, has been recognized and spoken at membership meetings, and has regularly distributed handbills stridently advocating his point of view.

In early 2001, Mr. Pamias requested from the Local copies of the audit performed by the Union's then outside auditors, and copies of "reports" prepared by Kroll and investigator Brian Kelley. As the Union reminded Mr. Pamias in response to the request, the Union publishes in the magazine mailed to all members a synopsis of the audit report and provides copies of the audit to any member who requests one.

Kroll and Mr. Kelley were retained by the special counsel to the Trustee of the Local in 1999 when the Local was voluntarily placed in Trusteeship following the resignation of its President. Their communications in connection with their investigations were to counsel, and as such were confidential, and privileged, and moreover, were not in the form of any comprehensive "reports".

Mr. Pamias' running mate in the August 2000 union officer election had made similar requests to the Service Employees International Union in June 2000 and had been informed of the privileged character of these materials.

3. The Local reserves the right to provide an additional statement to the Committee after the hearing to respond, as appropriate, to any legitimate issues that might be raised by any testimony before the Committee.

Very truly yours,

Larry Engelstein
General Counsel

cc: Ranking Member

***APPENDIX K – SUBMITTED FOR THE RECORD, MEMORANDUM FROM KEVIN DOYLE, RE: LABOR DAY PARADE AND PRIMARY ELECTION, AUGUST 20, 2001***

# Memorandum

To: All Supervisors and Delegates
From: Kevin Doyle
Re: Labor Day Parade and Primary Election
Date: August 20, 2001

1. **Weekend of September 8th and 9th**
   Supervisors and delegates are expected to work one day during this weekend, at one of the three assignments below. Indicate on the attached sheet where each staff member will work:

   Labor Day Parade: *Saturday, September 8.*
   Half the staff should plan on marching in the Labor Day Parade. Meet at 12 noon on West 45th Street, between 5th & 6th Aves.

   Preparation for the Primary Election: *Saturday or Sunday*
   Supervisors and delegates not marching in the parade may choose to work either Saturday or Sunday on the primary election.

2. **Primary Day, Tuesday, September 11**
   Supervisors and Delegates: are expected to work from 6:00 a.m. to 9 p.m. on Primary Day. Delegates and supervisors will be assigned to a specific location and will be responsible for giving out assignments to stewards and members.

   Steward and Volunteer Recruitment: Districts are responsible for recruiting stewards and volunteers to work on Primary Day. Each delegate is responsible for recruiting half the delegates plus 20 members:

| District | Stewards | Members | Total |
|---|---|---|---|
| | | *(20 members for each delegate)* | |
| 2 | 97 | 100 | 197 |
| 3 | 42 | 100 | 142 |
| 4 | 124 | 160 | 284 |
| 5 | 102 | 100 | 202 |
| 6 | 77 | 80 | 157 |
| 6N | 50 | 60 | 110 |
| 7 | 31 | 60 | 91 |
| 9 | 23 | 60 | 83 |

Volunteer locations will be Queens, Washington Heights/Bronx, or Lower Manhattan/Brooklyn. Shifts are 6-11 am, 11-3 pm, 3-8 pm.

3. **Election Day Training** for all staff will take place on the 23rd floor in the conference room for one hour at the following times:

| | | |
|---|---|---|
| Districts 2, 3, 4 | Wed., August 22 | 10 am |
| Districts 7, 9, Window Cleaners | Wed., August 22 | 3 pm |
| Districts 5, 6, 6N | Fri., August 24 | 10 am |

***APPENDIX L – SUBMITTED FOR THE RECORD, MEMORANDUM FROM LISA WATSON, RE: MARK GREEN LEAFLETTING! LAST ROUND!!!, OCTOBER 23, 2001***

# MEMORANDUM

To: District Supervisors
From: Lisa Watson
Date: October 23, 2001
Re: MARK GREEN LEAFLETTING! LAST ROUND!!!

---

As we discussed, each district will leaflet during **5** shifts from the box below. Please indicate next to the subway stop(s) below which dates and which shift your district will be leafleting. Feel free to pick all 6 shifts at the same location, but make sure to indicate the dates and shifts. Please return this form to me ASAP!! THANK YOU!

| LEAFLETTING SHIFTS: | Dates | Shift 1 | Shift 2 |
|---|---|---|---|
| | Mon 10/29 | 7:30 – 9:00 a.m. | 4:30 – 6:00 pm |
| | Tues. 10/30 | 7:30 – 9:00 a.m. | 4:30 – 6:00 pm |
| | Wed. 10/31 | 7:30 – 9:00 a.m. | 4:30 – 6:00 pm |
| | Thurs. 11/1 | 7:30 – 9:00 a.m. | No pm leafleting |
| | Fri. 11/2 | 7:30 – 9:00 a.m. | 4:30 – 6:00 pm |
| | Mon. 11/5 | 7:30 – 9:00 a.m. | 4:30 – 6:00 pm |

**DISTRICT:** _____

**SUBWAY STATIONS** — **DATES & SHIFT DISTRICT WILL LEAFLET**

**1, 2, 3, & 9 trains**

50th Street Station _____
66th Street Station _____
72nd Street Station _____
79th Street Street Station _____
86th Street Station _____
96th Street Station _____
103rd Street Station _____

**4, 5,& 6 trains**

Union Square _____

**Queens**

Queens Plaza Station _____
71st and Continental, Forest Hill _____
Union Tpke, Kew Gardens _____

**Brooklyn**

Atlantic Ave. Station (Atlantic and 4th Avenue, LIRR) _____
7th Ave Station, Park Slope (F train) _____
Jay Street, Borough Hall Station (A and F, or Borough Hall) _____

| District | Stewards | Members | Total |
|---|---|---|---|
| | | (# Delegates x 20 members) | |
| 2 | 97 | 100 | 197 |
| 3 | 42 | 100 | 142 |
| 4 | 124 | 160 | 284 |
| 5 | 102 | 100 | 202 |
| 6 | 77 | 80 | 157 |
| 6N | 50 | 60 | 110 |
| 7 | 31 | 60 | 91 |
| 9 | 23 | 60 | 83 |

***APPENDIX M – SUBMITTED FOR THE RECORD, INTER-OFFICE CORRESPONDENCE FROM BRIAN LAMBERT, RE: PRIMARY RUN-OFF DAY, OCTOBER 16, 2001***

OCAL 32BJ
SEIU
onger Together
SERVICE EMPLOYEES
INTERNATIONAL UNION
AFL-CIO, CLC
MICHAEL P. FISHMAN
President
KEVIN J. DOYLE
Vice President
HÉCTOR J. FIGUEROA
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Theater, Amusement
& Cultural Division
1650 Broadway - Rm. 902
New York, NY 10019
212.265.6556

# INTER-OFFICE CORRESPONDENCE

TO: District Supervisors

FROM: Brian Lambert BL

RE: Primary Run-off Day

DATE: October 16, 2001

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This is a reminder that all staff should have completed a Personal Day Off or Vacation Request form for the Primary Run-off day on Thursday, October 11, 2001. Please insure that all you staff have completed this form.

BL:kc

cc: Kevin Doyle

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