

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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U.S. DISTRICT COURT
DISTRICT OF COLUMBIA
JUL 1 2004

SENATOR MITCH McCONNELL, et al.,
Plaintiffs,
v.
FEDERAL ELECTION COMMISSION,
et al.,
Defendants.

Civ. No. 02-582 (CKK, KLH, RJJ)
All consolidated cases.

COUNSEL ONLY

AMERICAN FEDERATION OF LABOR
AND CONGRESS OF INDUSTRIAL
ORGANIZATIONS, et al.,
Plaintiffs,
v.
FEDERAL ELECTION COMMISSION,
et al.,
Defendants.

DECLARATION OF GERALD M. SHEA

Background

1. I have spent most of my working life in various positions with the labor movement. In August 1993, I left the Service Employees International Union, where I had worked since 1972, and accepted what was intended as a temporary assignment as Director of the Employee Benefits Department of the AFL-CIO. In 1994 I also assumed the position of Executive Assistant to Thomas R. Donahue, the Secretary-Treasurer of the AFL-CIO. In these

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positions, I was responsible for the AFL-CIO's efforts to obtain national health care reform legislation. When Mr. Donahue became the President of the AFL-CIO in August, 1995, I continued as his Executive Assistant.

2. After John J. Sweeney won election as President of the AFL-CIO on October 25, 1995, I became Assistant to the President for Governmental Affairs, and I have held that position to this day. I am responsible for oversight and coordination of all of the AFL-CIO's policy-related activities, principally including the activities of the Legislative and Public Policy departments, but also dealing regularly with the Public Affairs, Political, Safety and Health, and Civil, Human and Women's Rights departments, and others at the AFL-CIO. Each of these departments is headed by a senior management person who reports directly to the officers of the AFL-CIO, and I am not normally involved in the day-to-day administration of these departments. Instead, my role is to make sure that all of the staff resources within the organization are working effectively and in concert to achieve our policy goals. In particular, this has been my role with respect to the AFL-CIO's broadcast advertising program since Denise Mitchell joined the AFL-CIO as head of the Public Affairs Department in November 1995.

Overview of the Structure and Purposes of the AFL-CIO

3. The AFL-CIO is a national labor federation comprised of 66 national and international labor unions that, collectively, have a total of approximately 13 million members, who are also members of the AFL-CIO. These members work, and are represented for purposes of collective bargaining, in thousands of occupations in virtually every industry. The AFL-CIO is a tax-exempt organization under Section 501(c)(5) of the Internal Revenue Code. The AFL-CIO was formed in 1955 by the merger of its two predecessor confederations of unions, the

American Federal of Labor and the Congress of Industrial Organizations.

4. The purposes, structure, policies, and programs of AFL-CIO are described in the AFL-CIO Constitution (Exh. 1, 18282-320) and on its website, www.aflcio.org, which is updated regularly. The AFL-CIO's basic purposes, structure, policies and programs remain largely consistent from year-to-year. Since 1995, the AFL-CIO has regularly described four fundamental missions as underlying all of its activities:

- a. Organizing all workers into unions so they can achieve dignity and security through common efforts in collective bargaining.
- b. Providing an effective political voice to workers on public issues that affect their lives and fighting for an agenda for working families at all levels of government.
- c. Establishing unions as an active force for workers in America's communities, in alliance with other organizations.
- d. Enabling workers to influence the global economy by expanding their and their unions' roles in corporate decisions that affect their working lives and in the international marketplace.

5. The AFL-CIO's highest governing body is its convention, which is comprised of delegates representing its national and international affiliates, state federations and area and central labor bodies. The Convention sets policies and goals for the labor movement and elects the AFL-CIO's officers -- the President, Secretary-Treasurer and Executive Vice President (full-time executive officers) and 51 Vice Presidents (typically, chief officers of AFL-CIO affiliates). These officers comprise the AFL-CIO Executive Council, which meets periodically during the year and is the AFL-CIO's highest governing body between conventions. Since 1955 the

AFL-CIO Convention has met every two years; the 2001 Convention amended the AFL-CIO Constitution to make this interval four years, so the next convention will take place in 2005.

6. The AFL-CIO also includes 51 state labor federations that coordinate with local unions and other labor organizations that affiliate with them and give working families a voice in every state through political, legislative and other activities. These state federations are led by officers and boards elected by delegates from local union affiliates.

7. The AFL-CIO also includes nearly 580 area and central labor councils, which similarly give working families a voice at the county and local level, and which too are led by officers elected by local union affiliates.

8. The day-to-day work of the AFL-CIO is primarily conducted by the following programmatic departments: Organizing; Field Mobilization; Corporate Affairs; Legislative; Political; Public Policy; Public Affairs; Civil, Human and Women's Rights; International Affairs; Safety and Health; and the Office of the General Counsel.

9. The AFL-CIO also includes trade and industrial departments that coordinate particular activities of affiliated unions arising from their representation of workers in common industries. These departments are governed by their own executive bodies, hold their own conventions and manage and finance their own affairs within the overall framework of the AFL-CIO.

General Financial Information

10. Until 2002 the AFL-CIO operated on a calendar year basis. Since 1998 the AFL-CIO's total annual gross receipts have ranged between \$151,972,203 and \$175,578,133. These AFL-CIO's receipts primarily consist of "per capita tax" payments from the AFL-CIO's 66

affiliated national and international unions, calculated in accordance with a per-member formula established by the AFL-CIO Constitution. The AFL-CIO receives no membership dues; its members typically pay dues to their local unions. Virtually all the rest of the AFL-CIO's receipts derive from various royalty payments and interest on investments. The AFL-CIO does not solicit individual donations.

11. The AFL-CIO routinely spends from its general treasury to pay for the operational expenses underlying its programmatic initiatives and activities, including rents, mortgages, salaries, maintenance, utilities, supplies and equipment. For example, its total cash disbursements in 2001 amounted to \$164,246,963.

Overview of the AFL-CIO's Public Policy Goals and Programs

12. In this Declaration, I will discuss the overall public policy goals pursued by the AFL-CIO from late 1994 through 2001, including the issues and legislation that were the subject of AFL-CIO broadcast advertising. As a general matter, these policy goals are established by the AFL-CIO Convention, the AFL-CIO Executive Council and the three Executive Officers of the AFL-CIO. Historically, the AFL-CIO has always researched, adopted and promoted policies on a broad and deep range of domestic and foreign policy matters, from its perspective as the coordinating body of the Nation's largest organized and enduring mass movement of people, comprised of many millions of members with daily and strong attachments to their unions. Among innumerable examples, the AFL-CIO and its affiliated unions were among the principal supporters of the 1960's Great Society programs; the establishment of Social Security and Medicare; the development and enactment of the Employee Retirement Income Security Act of 1974; and all the civil rights, women's rights and disability rights legislation enacted since the

1960's.

13. During my tenure since 1993, the AFL-CIO has engaged in substantial policymaking, public advocacy and lobbying in Congress and before the Executive Branch on such issues as health care; trade and industrial policy; tax fairness; budget priorities; Social Security and retirement protection; Medicare; wage and hour and workplace safety standards; civil rights; immigration; and campaign finance and election reform. Virtually all of these issues are perpetually the subject of popular debate, prospective legislation and regulation and enforcement policy by the Federal government.

14. The AFL-CIO has also always researched, developed and promoted policies that have a more union-institutional focus, or that otherwise arise more specifically from the nature and role of unions, such as the right to organize; labor-management relations; government intervention in labor disputes; and myriad regulations governing the workplace. Some of these issues are less regularly the focus of pending legislation, or are less familiar to the general public, and the AFL-CIO's ability to influence popular opinion is more attenuated, requires longer term strategies and is less conducive to mass communications like broadcast media.

15. The AFL-CIO's policy-related agenda and activities since 1994 are reflected in the Executive Council's and various Executive Officers' reports to the 1995, 1997, 1999 and 2001 conventions, and in many resolutions adopted by those conventions. See "Executive Council Report" (1995) (Exh. 2, 18386-510); "Policy Resolutions Adopted" (1995) (Exh. 3, 18511-43); "Executive Council Report" (1997) (Exh. 4, 18544-59); "Resolutions and Constitutional Amendments Adopted" (1997) (Exh. 5, 18560-99); "Executive Council Report" (1999) (Exh. 6, 18600-21); "Resolutions and Constitutional Amendments Adopted" (1999) (Exh.

7, 18622-68); “Executive Council Report” (2001) (Exh. 8, 18669-723); “Resolutions and Constitutional Amendments Adopted” (2001) (Exh. 9, 18724-88).

16. These policies and activities are also reflected in various resolutions adopted by the Executive Council from 1995 through 2001. These include resolutions addressing federal budget and tax policy (Exh. 10, 19698, 19731-32); Social Security and retirement protection (Exh. 11, 19657-58, 19668-71, 19700-01, 19711-13, 19730); Medicare (Exh. 12, 19714-16); education (Exh. 13, 19702); trade and industrial policy (Exh. 14, 19651-52, 19664, 19703-08, 19719-20, 19736-38); international labor rights (Exh. 15, 19724-25, 19728-29); most-favored-nation status and permanent normal trade relations with China (Exh. 16, 19665, 19699, 19717-18, 19727); and immigration (Exh. 17, 19721-22, 19744-46).

17. The AFL-CIO’s federal legislative priorities are also reflected in the annual “scorecards” prepared by the AFL-CIO Legislative Department after each annual congressional session adjourns. These scorecards select a relative handful of significant votes cast each year in the Senate and the House; assign a “right” or “wrong” designation to the “aye” or “no” votes on each; and calculate overall “right” and “wrong” percentages for the votes each Member of Congress. These scorecards reflect the Legislative Department’s retrospective judgment regarding the most critical or exemplary votes on issues of importance to the AFL-CIO and the labor movement that were addressed during the previous session. These selections usually include both union-institutional issues that are less familiar to the general public and are relatively non-conducive to public advocacy efforts, as described above, such as the so-called “national right-to-work law” that the Senate defeated in 1996, and more general working family issues that are more publicly familiar and conducive to public advocacy, as described above, such

as the minimum wage increase that the Senate approved in 1996.

18. The AFL-CIO legislative scorecards are publicly available and distributed to Senators and Representatives. They are an important means of communicating AFL-CIO priorities and encouraging Members of Congress to be responsive to them. The scorecards for the seven Congressional sessions from 1995 to 2001 are attached. (Exh. 18, 19507-51, 19564-68, 19552-63, 19581-635.)

19. In order to inform the AFL-CIO's policy development and activities, the AFL-CIO both consults closely with its affiliated unions and conducts regular polling and other opinion research to determine which social and economic issues are regarded as important by union members and the general public. For example, in early 1996 the AFL-CIO commissioned two well-known public opinion research organizations, The Mellman Group, Inc. and Peter Hart Research Associates, to conduct ten focus groups and a national telephone survey aimed at determining public attitudes concerning a range of economic issues and the government's role in addressing them. (Exh. 19, 18944-93.)

"Stand Up For America's Working Families" (1995)

20. After President Clinton's health care plan failed consideration in the Fall of 1994, and the Republican Party took control of both Houses of Congress, the AFL-CIO undertook a comprehensive assessment of these events and the AFL-CIO's role in them. One of our conclusions was that union members throughout the country were no longer sufficiently responsive to union efforts to advise them how to vote at election time, and needed to be engaged on issues of importance on a continuous basis. At the same time, we recognized that the AFL-CIO's old style of seeking to influence Congress primarily through the personal contacts of our

officers and legislative staff would no longer work. Instead, we needed to develop a much greater capability to mobilize union members and other workers and their families to respond to legislative issues at the grassroots level.

21. Our analysis of the 1994 events began to manifest itself in the way the AFL-CIO responded to the Republican Congress's attempts throughout 1995 to cut back on numerous benefits and protections of importance to workers and their families. At its February 1995 Executive Council meeting, the AFL-CIO adopted and announced a series of policy statements addressing virtually the entire range of the so-called "Contract With America" being pursued by the new congressional majority's legislative agenda, and setting forth "The Needs of Working America." (Exh. 20, 19655-59, 19638-50.) And, rather than relying on traditional Washington-based lobbying, we undertook a major effort to mobilize workers in targeted congressional districts under the rubric "Stand Up For America's Working Families." AFL-CIO field staff and staff from AFL-CIO-affiliated unions were assigned to coordinate meetings with Members of Congress and undertake other local activities to express opposition to the Republican legislative agenda.

22. The AFL-CIO also retained a media and political consulting firm, Greer, Margolis, Mitchell, Burns & Associates, to assist us in developing and disseminating broadcast advertisements that would educate and mobilize the public against various elements of the "Contract with America." Although the AFL-CIO had engaged in issue-related advertising to a limited extent in the past, particularly in connection with health care reform, our commitment to this form of advocacy increased substantially in 1995.

23. The AFL-CIO's broadcast program began with a flight of television

advertisements entitled "Cuts" that discussed attempts by the Republican Congress to cut federal funding for jobs, wages, health and safety, housing for senior citizens, and school lunches. (Exh. 21, 001311). As set forth in a memorandum from our media firm to me (Exh. 22, 001186-1187), the advertisements, which asked viewers to "Stand with Us" in opposing the Republican legislative agenda, were timed to run during the congressional Easter recess in eight media markets serving the districts of nine Republican Members of Congress who the AFL-CIO believed might be susceptible to grassroots lobbying pressure. In May, we ran a flight of similar radio ads targeting five additional Members.

24. In July, the AFL-CIO ran another flight of television and radio advertisements entitled "Sparkler," which also addressed the proposed budget cuts. These advertisements named approximately 14 Members of Congress who had been named in one of the earlier flights. And in August, we ran two flights of advertisements, entitled "Stand" and "Grain," (Exh. 23, 001181) which focused on Republican-led efforts to eliminate health and safety protections for workers in the Departments of Labor and Health and Human Services appropriations bill that passed immediately before the August congressional recess. These advertisements were accompanied by a systematic effort to earn "free" media coverage, including a press conference by AFL-CIO President Thomas Donahue, a satellite media tour and local press conferences. The August advertisements ran in approximately 23 media markets serving 26 Congressional Districts. A report of our "Stand Up" activities during August 1995, which was prepared under my direction, is attached. (Exh. 24, 19049-19139.)

25. Finally, the "Stand Up" campaign included a concerted effort to focus attention on significant cuts in the Medicare and Medicaid programs proposed by the Republican Congress.

direct mail messages sent to approximately one million union households, telephone banks, local events ranging from press conferences to demonstrations, and an extensive broadcast media program. (Exh. 27, 17348-17353.)

27. On December 8, 1995, President Clinton vetoed the budget reconciliation bill, and, after a period of fruitless negotiations, the Federal government had to be shut down. The budget impasse lasted until early January, when the Republican leadership in the Senate and then the House backed down and agreed to pass a series of temporary funding measures to keep the government operating until January 26, 1996. In order to keep pressure on Congress to reach a satisfactory agreement with the President, the AFL-CIO began a new round of grassroots activities focusing on Republicans who had supported the leadership in its efforts and so-called "Blue Dog" Democrats who were urging the President to compromise further with the Republican leadership. (Exh. 28, 17408-17414.) The AFL-CIO also sponsored another round of television and radio advertisements to support these local efforts.

Labor '96

28. On February 21, 1996, the AFL-CIO Executive Council issued a call to a special convention to be held on March 25, 1996 in Washington, D.C. in order to consider a grassroots legislative and political program for the balance of the year, to approve a special assessment of 15 cents per member per month to help finance this program, and to consider an AFL-CIO endorsement for President and Vice-President in the 1996 election. (Exh. 29, 19142.) The convention approved the assessment and the "Labor 96" legislative, advocacy and political agenda. (Exh. 30, 17989.)

29. The "Labor '96" effort is further described in numerous internal AFL-CIO

documents circulated during 1996 to frame and guide AFL-CIO activities and communications, including “Labor ‘96” (Exh. 31, 19161-62); “Labor ‘96 Mission Statement” (Exh. 32, 19163-64); “Talking Points on the AFL-CIO’s Role in This Election” (Exh. 33, 19205-08); “Working Women Vote Talking Points” (Exh. 34, 19209-10); “Talking Points-Rebuilding the Labor Movement” (Exh. 35, 19211); “Talking Points - the AFL-CIO Ad Campaign” (Exh. 36, 19212); and “Guidelines for AFL-CIO Grassroots Lobbying Activity” (Exh. 37, 19944).

Increasing the Minimum Wage (1996)

30. One of the principal legislative goals of the AFL-CIO in 1996 was the enactment of an increase in the federal minimum wage, which had not changed since 1991. Bills to accomplish an increase had been introduced in intervening Congresses but had not been enacted. On March 28, 1996, the Democratic leadership in the House moved to attach an increase in the minimum wage from \$4.25 to \$5.15 to legislation raising the federal debt ceiling, but this motion was defeated on procedural grounds by a vote of 192 to 228, with five Democrats voting against consideration of the increase and only seven Republicans joining 185 Democrats in voting in favor. In the Senate, a minimum wage increase was filibustered, and a vote, also on March 28, to break the filibuster failed by a vote of 55 to 45, with all Democrats and eight Republicans casting votes in favor of bringing the increase to a vote.

31. In response to these actions, the AFL-CIO decided to undertake a number of grassroots lobbying activities aimed at building support for a minimum wage increase and pressuring the Republican leadership to allow a vote to take place. These efforts focused on the April 1996 congressional recess. As described in a memorandum describing these grassroots efforts in detail, 400,000 pieces of direct mail, public events and workplace leafleting took place.

(See Exhs. 38 and 39, 17437-17455, 19970.) In addition, as set forth in detail in the Declaration of Denise Mitchell, in April the AFL-CIO sponsored a flight of television and radio advertisements in support of a minimum wage increase.

32. When Congress returned from this recess, a number of Republican House Members introduced their own proposal to increase the minimum wage, but the House voted again on April 25 not to bring the issue up for a vote. Similar votes took place on May 1, May 8 and May 15. During this period, the AFL-CIO continued to organize grassroots lobbying activities and sponsored radio and television advertisements to put pressure on the House leadership to allow a vote. Finally, the House leadership agreed to allow a vote on the increase on May 23. The AFL-CIO responded with several flights of broadcast advertisements targeting Members who had voted in March against allowing the increase to be considered. As described in a memorandum from the AFL-CIO's Legislative Director, at the time that these advertisements ran the AFL-CIO organized a series of local press events to amplify our advertisements and call attention to the upcoming vote. (Exh. 40, 17468-17497.)

33. On May 23 the House approved the minimum wage increase. As described in a memorandum issued by the AFL-CIO following the vote, at least ten Republicans who had voted in March not to bring up the bill and who had been targeted by the AFL-CIO's advertisements and other lobbying activities voted in favor of the bill. (Exh. 41, 19168-19177.)

34. Attention then turned to the Senate, where Senator Edward M. Kennedy (D-MA) and other Democrats were expected to obtain a floor vote. On July 9, the day of the vote, the AFL-CIO sponsored a lobbying day in Washington, in which local union members visited Senators to urge them to vote for the minimum wage increase and other pro-worker bills due to

come up in the near future.

Medicare, Social Security and Tax Fairness

35. Among the major concerns of the AFL-CIO in connection with the fight over the FY 1996 budget were the Republican proposals make drastic cuts in the Medicare and Medicaid programs. Although the proposed cuts were significantly reduced in the final 1996 budget package agreed to by the President and Congress in January, 1996, the Medicare issue resurfaced very soon after Congress reconvened, when the Republican leadership in the House and Senate announced agreement on a budget resolution that would set the parameters for all funding decisions for FY 1997. Budget resolutions embodying the joint leadership proposal were passed in the House on May 18 and in the Senate on May 23, 1996. (Exh. 42, 17647-48.) These resolutions included cuts of \$169 billion over six years in the Medicare program and \$72 billion over the same period in Medicaid funding. While the two budget Resolutions were being reconciled in Conference, the AFL-CIO initiated an aggressive lobbying campaign to eliminate or reduce the proposed cuts, including broadcast advertisements that began in June and a series of local press conferences timed to coincide with them. (Exh. 43, 17637-640, 17643, 17647, 17691-693.) As this legislative struggle continued throughout the summer and into September, the AFL-CIO sponsored several additional flights of advertisements, as detailed in the Declaration of Denise Mitchell.

36. In the Fall of 1999, as Congress again debated budget proposals that would have had a major impact on the Social Security and Medicare programs, the AFL-CIO argued that the surplus in these programs should be used to strengthen the Medicare program by providing a prescription drug benefit rather than a tax cut for wealthy individuals.

37. In June of 2000, Congress debated the issue of prescription drugs. While the Senate tabled an amendment that would have provided strong prescription drug coverage, the House passed a bill that failed to guarantee prescription drug benefits to seniors. With the issue remaining on the congressional agenda, the AFL-CIO ran broadcast ads in July and August focusing on House members who had voted for the bill.

Retirement Security

38. Another important issue that emerged from the FY 1996 budget fight was retirement security. A Republican proposal to allow some companies to raid worker's pensions was included in the budget reconciliation bill, although due in part to the AFL-CIO's lobbying it was dropped in the final legislation enacted in January, 1996. After Congress returned, legislation was introduced in the House and Senate to address a similar problem with respect to 401(k) plans, H.R. 3688, the 401(k) Protection Act. As described in a letter from the AFL-CIO's Legislative Director, in August 1996 the AFL-CIO began a lobbying campaign to enact H.R. 3688. (Exh. 44, 19818-19.) In support of this effort, the AFL-CIO sponsored a flight of advertisements supporting enactment of H.R. 3688, as described in the Declaration of Denise Mitchell.

Education

39. After its August 1996 recess, Congress returned to Washington to consider an array of pending legislation. Of paramount importance to the AFL-CIO were the various appropriations bills for the Federal government, including the FY 1997 appropriations for the Department of Education, each of which had to be passed before the new fiscal year began on October 1. As discussed above, the AFL-CIO had been deeply concerned during the 1995 budget

stand-off about proposed cuts in college loan programs, which assist children of union members and other working families to attend colleges that they cannot otherwise afford, as well as other education programs. The Republican proposal for FY 1997 again would cut this program. The AFL-CIO supported an amendment to add \$3.2 billion to the budget for education programs. (Exh. 45, 19820.) Ultimately, Congress and the White House agreed on a catch-all appropriations bill that, in the words of the Wall Street Journal, was “heavily weighted toward education programs.”

Overtime and FLSA Coverage

40. Although the AFL-CIO was able to achieve an increase in the federal minimum wage during 1996, the minimum wage and overtime protections of the Fair Labor Standards Act (“FLSA”) have remained under constant threat from conservative and business interests. For example, the idea of “forced compensatory time” has long been on the legislative agenda and strongly opposed by the AFL-CIO each time it has arisen. In June 1997, after failing to defeat a similar provision in the House, the AFL-CIO was able to generate sufficient opposition through broadcast advertisements and other lobbying activities to prevent consideration in the Senate of S. 4, a compensatory time bill which would have amended the FLSA to permit employers to require their employees to work over 40 hours a week without paying them overtime.

41. When Congress substantially revised the nation’s welfare laws in the mid-1990’s to require welfare recipients to find gainful employment rather than remain on the welfare rolls, one of the most contentious issues involved the extent to which recipients would have to accept jobs that did not pay at least the minimum wage. The AFL-CIO successfully lobbied against Republican proposals to exclude workfare participants from coverage under the FLSA. As

described in an AFL-CIO press release, during 1997, after Republicans in the House of Representatives renewed their efforts to remove welfare recipients from the minimum wage protections as part of the FY 1998 Budget Reconciliation Bill, we joined with women's, civil rights, church and other groups in successfully opposing this proposal. (Exh. 46, 20016-17.)

Tax Fairness

42. In each of the 1995 and 1996 budget fights, the AFL-CIO opposed Republican proposals to provide various tax benefits to the wealthy while at the same time proposing cuts in federal programs such as Medicare and education. In early 1997, we continued to raise this issue in a series of broadcast advertisements that contrasted Congress's willingness to provide tax subsidies to companies that send jobs overseas with its neglect of crumbling schools in need of repairs. Later in 1997, the tax issue arose again in the context of competing tax proposals offered by the Republican leadership and the White House. The legislative fight came to a head when the House considered H.R. 2014 on June 26, 1997. During the period leading up to this vote, the AFL-CIO lobbied vigorously in opposition to the Republican plan and in support of the President's plan.

43. On September 17, 1998, the issue of tax fairness arose again when the House Ways and Means Committee marked up the Taxpayer Relief Act ("TRA"), a bill that proposed using surpluses in the Social Security Trust Fund to pay for \$80 billion worth of tax cuts. The AFL-CIO launched a lobbying campaign to defeat this measure when it came to the floor of the House, including a series of television and radio advertisements before the vote later that month. After the House passed the TRA, we continued lobbying against the proposal in the Senate, which was expected to vote on the bill in early October. In addition, since the bill would almost

certainly have to return to the House for another vote once it was approved in the Senate, we continued running ads in the congressional districts of Members who had voted for the bill the first time.

44. In early 2001, President George W. Bush submitted to Congress a proposal for massive tax cuts. The AFL-CIO joined with over 100 other organizations in the “Fair Taxes for All Coalition” to oppose these tax cuts because they were targeted to the wealthy, rather than working families. The budget resolution passed in the House on March 8, 2001 and in the Senate on May 10, 2001 by a 53-47 vote.

45. In November, 2001, in the aftermath of the September 11 terrorist attacks and the economic recession, the AFL-CIO backed an economic stimulus plan that included relief for workers, including enhanced unemployment insurance benefits. After the House passed a stimulus package that contained massive tax cuts for the rich, the AFL-CIO supported a contrary bill sponsored by Senator Max Baucus (D-MT). On November 14, 2001, the Baucus bill fell nine votes short of the 60 votes needed to force a floor vote. As negotiations continued, the AFL-CIO continued to lobby for elimination of the tax cuts proposed by the President and to provide benefits that would aid working families.

Trade Policies

46. The AFL-CO and its affiliates devoted considerable resources in opposing ratification of the North American Free Trade Agreement (NAFTA) when Congress considered and approved it in 1993. Trade issues have since been ever-present before Congress, and they have a tremendous impact on domestic manufacturing industries where millions of union members work, and millions more have lost jobs due to what we consider misguided and

destructive trade policies. (Exhs. 47 and 48, 20013, 20020.) In May and June, 1997, the AFL-CIO lobbied against so-called “fast track” legislation that would give the President authority to make trade agreements that Congress could only approve or disapprove without amendment. In June 1997, AFL-CIO Secretary-Treasurer Richard L. Trumka testified before the Senate Finance Committee that the AFL-CIO would oppose legislation giving the President so-called “fast track” trade authority if the legislation did not require enforceable labor and environmental standards. That Fall, when Congress was expected to take up the “fast track” legislation, the AFL-CIO organized a vigorous lobbying campaign against the proposal, including extensive broadcast media, and “fast track” was pulled from the legislative agenda in November, shortly before Congress adjourned for the year.

47. In September 1998, the Republican leadership in the House of Representatives scheduled a vote on the “fast-track” legislation, which the AFL-CIO again opposed in a series of broadcast advertisements as well as extensive direct lobbying. The House rejected the proposal on September 25, 1998 by a vote of 243 to 180.

48. In the Fall of 1999, the AFL-CIO participated as part of a coalition of consumer, citizens, labor and other groups in protesting the secretive and regressive policies of the World Trade Organization.

49. In the Spring of 2000, Congress took up President Clinton’s proposal to provide permanent normalized trade relations with China, a proposal that the AFL-CIO had long opposed. In addition to numerous grassroots lobbying events involving union members, throughout the months of February through June 2000 the AFL-CIO ran a series of flights of television and radio advertisements urging Senators and Representatives in both parties to vote

against the proposal. The House passed the bill in May and the Senate did so in September.

50. In May 2001 President Bush stated his intention to seek fast-track trade authority of the kind defeated in previous Congresses. The AFL-CIO ran flights of advertisements in July, October and December urging Members of Congress to vote against this proposal. On December 6, 2001 the House approved "fast track" by a vote of 215-214.

Patient's Bill of Rights/HMO Reform

51. In the early 1990's, the AFL-CIO was a major supporter of President Clinton's health care reform proposal that died in Congress. The issue of health care reform remained vital but relatively dormant legislatively until the Spring of 1998, when public focus on the excesses of HMOs and other managed care organizations increased. On March 31, 1998, "Patients' Bill of Rights" legislation to reform HMOs was introduced in both the House (H.R. 3605) and the Senate (S. 1890), and the AFL-CIO, along with consumer and citizens organizations, began a major grassroots lobbying effort in support of these proposals. In July the AFL-CIO broadcast five flights of advertisements urging Democratic and Republican Members of both Houses to support our preferred legislation. A version of PBR opposed by the AFL-CIO passed the House on July 24, 1998, and Republicans in the Senate subsequently announced their support of a significantly weakened version of the PBR (S. 2330). In September this bill was scheduled for a vote, and in response the AFL-CIO and its coalition partners began a grassroots lobbying campaign, including significant broadcast media, aimed at defeating S. 2330 or forcing the bill to be removed from the Senate calendar. These efforts were successful and the bill died.

52. When the Senate again considered PBR in July 1999, the AFL-CIO continued to lobby in support of a bill (S. 6) proposed by Senators Thomas Daschle (D-SD) and Edward

Kennedy (D-MA), and in opposition to a weaker Republican bill (S. 326), and ran a flight of television ads calling on various Senators to take the right side. The Senate passed S. 1344 (formerly S. 326) by a vote of 53-47 on July 15, 1999. Later in the year, on the House side, the AFL-CIO pushed for passage of H.R. 2723, the bi-partisan Patients' Bill of Rights sponsored by Representatives Charles Norwood (R-GA) and John Dingell (D-MI), which passed on October 7, 1999 by a vote of 217-209.

53. In the Summer of 2000, the two different versions of the Patients' Bill of Rights that passed in 1999 were mired in conference. Senator Don Nickles (R-OK), who chaired the conference committee, refused to accept provisions from the stronger House-passed bill. In response, the Democratic leadership in the Senate pushed for a vote on the House-passed Norwood-Dingell legislation on June 8, 2000 in the form of an amendment to the Defense authorization bill, but the motion was tabled. The AFL-CIO continued to conduct grassroots lobbying, broadcast and direct lobbying activities aimed at passing the stronger Norwood-Dingell bill, but the legislation died in conference.

Workplace Health and Safety

54. The AFL-CIO was one of the principal supporters of the Occupational Health and Safety Act of 1970, which created the Occupational Health and Safety Administration ("OSHA"). Over the years, the AFL-CIO's Safety and Health and Legislative departments have lobbied OSHA to adopt a broad range of strong regulatory protections for workers and to enforce its regulations aggressively. We have also appeared in numerous federal court cases to challenge the failure of OSHA to act in accordance with the legislative mandate or where business interests have challenged regulations that we supported.

55. During 1995 the AFL-CIO vigorously opposed threatened cutbacks in workplace health and safety enforcement, and ran broadcast ads during April, August and September calling on the public to do so as well.

56. In June 2000, with OSHA prepared to promulgate an ergonomics standard concerning repetitive motion injuries that was supported by the AFL-CIO, the House Appropriations Committee adopted and attached a rider to H.R. 4577 that prevented the regulation from moving forward. The AFL-CIO conducted a number of lobbying activities aimed at defeating this rider. On June 8, 2000, the House of Representatives rejected House Amendment 760 to H.R. 4577, which would have stripped the rider from the bill by a vote of 203-220, with all but 19 Republicans voting for the amendment. The Senate adopted an amendment to FY 2001 Labor-HHS Appropriations bill to prohibit OSHA from issuing the regulations by a vote of 57-41 on June 22, 2000. With President Clinton threatening to veto the Labor-HHS appropriations bill due to the blockage of the ergonomics standard, the AFL-CIO ran television advertisements in September naming 14 Members of Congress who had supported the amendment repealing the ergonomics regulation.

Coordination With Members of Congress Concerning Legislative Activities


57. The AFL-CIO Legislative Department includes ten lobbyists who regularly meet and converse with Members of Congress and their staffs on a host of issues, such as those I have described above. Other AFL-CIO staff, and the AFL-CIO's Executive Officers, also often meet and converse with Members in coordination with the Legislative Department. The AFL-CIO's efforts to enact or defeat particular legislation regularly include coalition efforts with like-minded groups and organizations, and efforts to influence public opinion in favor of our legislative goals.

It is routine and necessary to work as closely as we can with congressional proponents of our positions in order to devise and carry out a legislative and public advocacy strategy that will succeed. Meanwhile, virtually every Member of Congress is a candidate for reelection at all times, and as a practical and unavoidable reality any legislative contact or action provides someone with potential fodder and issues during the next election campaign.

58. Any legal restrictions on the ability of an organization like the AFL-CIO to coordinate legislative and policy communications and activities with federal officeholders who happen to be candidates could substantially interfere with our ability to maintain ordinary and necessary working relationships with Members of Congress and their staffs.

59. Since 1995 the AFL-CIO has regularly relied upon its contracts with Members and their staffs to gather information and advice about the status and prospects of particular legislation and the positions and considerations of other Members on legislation. We have used that information and evaluated that advice as significant factors in deciding whether or not to run broadcast issue advertising, and in determining its placement and content.

I declare under penalty of perjury that the foregoing is true and correct. Executed on
October 2, 2002.



GERALD M. SHEA