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LAWSUIT UPDATES

From: Carol Spooner wildrose@pon.net
Subject: UPDATE - Committee to Remove the Pacifica Board
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March 10, 2001

Dear All,

There are many new subscribers to the Committee to Remove the Pacifica Board (CRPB) bulletin, so a brief review of our work over the past 20 months may be in order.

In July 1999, during the 23-day KPFA lockout and armed occupation by IPSA International, we began gathering "Declaration" forms from Pacifica station listeners across the country calling for court removal of the Pacifica Board for gross abuse of their authority. By November 1999 we had collected about 3,000 signed original Declarations. We hired an attorney, Dan Bartley, and submitted our Declarations to the California Attorney General, Bill Lockyer, together with a Petition that he grant 12 listeners, representing all 5 Pacifica radio stations, standing to sue Pacifica in the public interest. This petition was in the form of a legal brief with about 400 pages of documents attached as supporting evidence. Pacifica filed an opposition brief in December 1999, and we filed a reply brief in January 2000 -- and there it sat in the Attorney General's office for many months while we waited to learn if we would be granted standing to sue.

Finally, on September 14, 2000, the AG did grant us standing as "Relators". The next day, on September 15, 2000, we filed our lawsuit, "The People of the State of California ex rel. Carol Spooner, et al., vs Pacifica Foundation, et al., in the Alameda County (California) Superior Court. The directors present at the September 17th board meeting in Washington, D.C., were personally served with the Summons and Complaint.

Four weeks later, on October 16th, Pacifica "removed" our case to the Federal District Court for Northern California. This was a frivolous move on their part, intended to cost us money and delay. We filed a motion to get the case sent back to state court for lack of federal jurisdiction, which the federal court did, after lengthy briefings and a hearing, on February 20, 2001.

In the meanwhile, of course, terrible damaging events continued at Pacifica -- the removal of PNN news director Dan Coughlin, PNN news anchor Verna Avery Brown's resignation in protest, the attacks and attempts to censor Amy Goodman, and the "Christmas Coup" at WBAI. Many encouraging things happened, too -- the PNN stringers' strike gained wide support, listeners' groups got better organized around the country, public figures who may have previously thought this was a trivial "family squabble" began denouncing the censorship and rightward shift at Pacifica, and Juan Gonzales resigned from Democracy Now! on the air and launched the "Pacifica Campaign" to organize resistance against the board and to turn up the heat on them to resign.

Two "dissident" Pacifica Directors, Rob Robinson and Rabbi Aaron Kriegel, also filed a lawsuit against the board in September 2000, and their case was also removed by Pacifica to federal court and sent back to state court with ours for lack of federal jurisdiction on February 20th. (Twenty one local advisory board (LAB) members from 4 of the 5 Pacifica stations [all but Houston] -- led by Dave Adelson of KPFA and Sherry Gendleman of KPFA -- had previously filed suit in July 1999. That case was delayed for a year by Pacifica's repeated motions to dismiss it -- but is now moving forward with "discovery" depositions of board members.) We expect the Alameda County Superior Court will order the three lawsuits partially "consolidated" -- so that overlapping issues will be decided in a consistent fashion together. However, there will always be 3 lawsuits, with separate issues as well. We expect three other "dissident" directors (Leslie Cagan, Tomas Moran & Pete Bramson) will be filing papers soon to intervene in support of the three suits.

Since February 20th, we have filed a motion for a Preliminary Injunction to preserve the "status quo", stop the damage if we can, and prohibit bylaws amendments, adding new directors, and other significant acts, until final resolution of our case, as well as a motion to disqualify Epstein Becker & Green (Director John Murdock's law firm) from representing Pacifica due to conflicts of interest. It now looks like these motions will be heard together on March 28th, or the first week in April. Our attorney, Dan Bartley, and I have been working non-stop on these papers for the past 2-1/2 weeks. (My background

EXHIBIT A

for many years is as a legal researcher/writer.) We expect Pacifica will file a motion to dismiss our case (a "demurrer") sometime before the end of the month & we will be required to respond to it in April.

We are very excited about the prospects for our case. We believe that before June we will be in a position to move for "summary adjudication" of some of the issues -- most importantly, our "usurpation of office" claims. We have a very strong case for removal of all but 5 of the directors, because 5 is the number of directors permitted by Pacifica's Articles of Incorporation. (There are presently 17 directors, 17 is 12 more than 5, so 12 have to go -- a pretty simple argument. -grin-) Because of illegal "elections" over the past 1-1/2 years, directors serving past the expiration of their terms, and other illegalities, we think there is a very good chance that the court will remove all directors except Robinson, Kriegel & Bramson, and will order election by the local advisory boards of two more "interim" directors. (We expect that the removed directors will agree not to appeal this ruling if we agree not to pursue our remaining claims for personal financial liability against them.)

At that point, we hope and believe that the "interim" directors will settle the remaining issues by agreeing to a year-long process of dialogue among the listeners, staff, LABs at all five stations to amend Pacifica's bylaws to provide a democratic process for electing the LABs and directors -- and to hold such elections within one year -- making Pacifica truly accountable to its listeners and staff by granting them legal "membership" and voting rights. It is our belief that this must happen if we are to prevent what occurred over the past 10 years -- the subversion from within of unaccountable people with agendas contrary to the founding purposes of Pacifica -- from happening again, or if it does, to give the listeners and staff the power to remove these people by democratic processes.

I've run out of steam for writing. Many people ask how they can help with this -- the most important help is continuing to gather the "Declaration" forms. You can print one for your station off our web page at <http://home.pon.net/wildrose/remove.htm> make copies and distribute them wherever you go. We have about 4300 of them now (plus about another 500 gathered by Jonothan Logan from WBAI listeners that one of our helpers is working on getting in our database right now). Eventually they will be submitted to the court as evidence of the widespread public concern. In addition, fundraising is always a priority.

Finally, if you have not read the passionate speech -- that says why this is so important and what it is that we are fighting for -- made by Congressman Major Owens (D-NY) on the Congressional Record on Thursday, March 8th, go to the SavePacifica Web Page at www.savepacificanet.net and read it! I meant to forward it to you all, but this bulletin turned out to be too long.

Thank you for your continued support. My email and snail mail bring me hope and encouragement everyday. I can't always respond to it all -- but sometimes in the dark of night when I start thinking I'm crazy, you send me strength or make me laugh, and I am so grateful.

Carol Spooner
Committee to Remove the Pacifica Board
(sponsoring the "listeners' lawsuit")
Web Page: <http://home.pon.net/wildrose/remove.htm>

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