HUNTER, CARNAHAN, SHOUB, BYARD & HARSHMAN

ATTORNEYS AT LAW

Michael J. Hunter
Russell E. Carnahan
Grant D. Shoub
Robert R. Byard
Cathrine J. Harshman

3360 TREMONT ROAD, SUITE 230
Columbus, Ohio 43221

TELEPHONE: (614) 442-5626
FAX: (614) 442-5625

www.hcands.com

Of Counsel
Robert M. Cody

September 21, 2011

VIA U.S. MAIL

Honorable Andrew R. Davis
Chief of the Division of Interpretation and Standards
United States Department of Labor
Office of Labor-Management standards
200 Constitution Ave, NW
Room N-5609
Washington, D.C. 20210

Re: ***Comments Regarding Proposed Regulations; 29 CFR Parts 405 and 406***
RIN 1215-AB79
RIN 1245-AA03

Dear Mr. Davis:

I am a union-side attorney based in Columbus, Ohio. I have been practicing union-side labor law for 26 years and, for that entire time, I have been a member of the American Bar Association. I am supportive of the proposed changes because I believe that the advice exception contained in Section 203(c) of the Act has been permitted to swallow the rule, rendering the reporting requirements intended by Congress when the Act was passed to be rendered almost meaningless. At the same time, the reporting requirements as applied to unions have grown increasingly more onerous. As noted in the commentary to the proposed rule change, Congress noted that the large sums of money spent by employers in anti-union campaigns "should be exposed to public view." LMRDA Leg. Hist. at 406-407.

The fact that third party employer consultants and attorneys can control the entirety of an anti-union campaign, down to the most minute level, and then avoid the reporting requirements of the law by having their message delivered by employer supervisors makes a mockery of the law's intent.

I must say that I am perplexed by the rumored opposition of the American Bar Association to the proposed rule changes. The information required under the proposed rule changes is no different from the billing and legal services contract information that has long been found, in the public employer context, to be available under public records statues, and has been found to be discoverable in litigation.[1] To my knowledge, the Bar Association has never sought to intervene in such matters; as a consequence, the probable stance in the matters at hand must be viewed as ideological rather than based upon concerns regarding attorney-client privilege or the alleged "chilling" affect of the proposed rules upon legal representation.

I encourage the adoption of the proposed rule amendments because I believe that they bring the reporting requirements back to what Congress intended when it passed the Act.

Sincerely,

Michael J. Hunter

Michael J. Hunter

[1] See, e.q., *Cypress Media v. City of Oakland Park*, 997 P.2d 681 (2000); *Beavers v. Hobbs*, 176 F.R.D. 562 (S.D. Iowa 1997); *Tipton v. Barton*, 747 S.W. 2d 325 (Mo. App. 1988); *State ex. Rel. Beacon Journal Publishing Co v. Bodiker*, 731 NE2d 245 (OH App 1999).