

INTERNATIONAL UNION OF OPERATING ENGINEERS

LOCAL UNION NO. 150, 150B, 150A, 150C, 150RA, 150D, 150G, 150M

AFFILIATED WITH THE A.F.L.-C.I.O. AND BUILDING TRADES DEPARTMENT

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September 21, 2011

United States Department of Labor
Washington, DC

RE: Comment on "Persuader" Rule Advice Exception

To Whom it May Concern:

I strongly support the Department of Labor's ("DOL") proposed rule that employer consultants and lawyers report so-called "persuader" activity that was previously considered "advice." I also believe it is essential that the DOL improve its enforcement of the requirement that consultants be required to report direct "persuader" activity.

I have worked as a Union organizer since 2006. Throughout that time I have participated in dozens of organizing campaigns involving hundreds of employees. In my experience, employers commonly hire consultants who meet with employees and give them anti-union propaganda. Such conduct is usually dishonest and intimidating, and ultimately destructive of the free choice rights of employees.

For example, in the spring of 2008, I worked on a campaign to organize the employees of a company called C.S. Drilling. Those driller, helper and mechanic employees worked in the construction industry performing mostly soil testing work. Local 150 has organized over 500 employees in the Construction Material Testing Industry since 2001. When we petitioned the NLRB for an election on April 17, 2008 (Case No. 13-RC-21742), I supported that petition with eight authorization card out of ten unit employees. (As it turned out, one of the employees who I thought performed bargaining unit work was the owner; another was a relative of his.) After filing the petition but before the election, unit employees reported to me that someone unknown to them had spoken to them repeatedly about not joining the Union. On the day of the election, at the pre-hearing conference conducted by the Labor Board agent, a person unknown to me attended on behalf of the Employer. When I asked him who he was, he refused to identify himself. He ultimately served as the Employer's observer, present in the polling place as all the employees voted.

When the votes were tallied on May 15, 2008, the Union received only one vote. Seven of the original eight card signers voted no.

Several months later, Local 150 learned from the Labor Board that the unidentified person who spoke to employees and served as the Employer's election observer was a lawyer hired by the Company to run its campaign. The Board was trying to bring disciplinary charges against this

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attorney for misconduct in his dealings with them. I don't believe anything ever came of that, nor do I believe he ever reported his persuader activity as is required by the DOL Rules.

I believe that enforcement of the "persuader" rule reporting requirements would have helped prevent this sort of thing. The fact that this lawyer believed he could do what he did anonymously I'm sure encouraged this misconduct. I believe if he was required to report it, he would think twice about it.

Thank you for your consideration of these comments.

Very truly yours,

INTERNATIONAL UNION OF OPERATING ENGINEERS,
LOCAL 150, AFL-CIO



John Ahlgrim
Organizer