

INTERNATIONAL UNION OF OPERATING ENGINEERS

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

AFFILIATED WITH THE AFL-CIO 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 worked as a Union organizer from 1987 continuously until 2005. Thereafter, I have served as the Local 150 Apprenticeship Skill and Improvement Program Coordinator, as a contractor negotiator, and Business Agent. I have participated in hundreds of organizing campaigns involving thousands of employees. In my experience, it is common for employers to hire consultants who meet with employers, draft employer propaganda, and then never report it.

In my experience I have encountered at least two law firms which are hired by employers to put on an anti-union campaign which goes well beyond giving mere "advice" to employers. In addition to frequent direct contact with employees, these law firms are recognizable by their pattern campaigns which are repeated over and over again. These standard anti-union campaigns include use of the same written propaganda and the same videos, DVDs and power point presentations.

One such law firm is Seyfarth Shaw in Chicago, Illinois. Between approximately 1987 and 2007 while I was employed as an organizer, I participated in NLRB and Illinois state labor board election campaigns in which we encountered the Seyfarth Shaw standard campaign between 40 and 50 times. Although about 60% of those campaigns occurred in the public sector, they did not differ much in their content. These campaigns included a sequence of approximately 12 letters which in timing, order and content did not differ from one campaign to another. These propaganda letters always opened with an appeal to employees as a "family," stating that as such the employer and employees could trust one another, characterizing the Union as "third-parties" or "outsiders." As the letters progressed, they included a "give us another chance" letter, again appealing to employees' emotions and the employer "family." A number of letters then were directed at "explaining" the law to employees stating that employers were prohibited from giving employees benefits, while the Union was operating on a "blank slate" which would allow it to

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promise almost anything. As the letter writing campaign progressed, the letters became harsher in tone and more plainly directed attacks on the Union. One letter would focus on the problem of "union corruption," and would implicitly or explicitly try to link the Union to organized crime. These letters would accuse the Union of vandalism or other violent conduct and again try to portray Union organizers as "thugs" and "gangsters." Another letter late in the campaign would analyze the Union's most recent LM-2 filings, putting out how much the Union's officers earned and arguing the Union's sole motivation was to collect dues to pay exorbitant salaries. Another letter late in the sequence would analyze the Union's by-laws, pointing out provisions under which Union members could be fined for violating those by-laws, particularly for crossing picket lines. Several of these themes were then joined in the final letter, which invariably predicted a strike at the employees' work place, returning to the themes of vandalism and violence, gangsterism and fines against members for crossing picket lines. There is no doubt in my mind that these documents were drafted by the lawyers of the Seyfarth Shaw law firm. The level of sophistication, knowledge of the law and the Union's by-laws and LM-2 filings, and the repeated use of certain formats, words and phrases from one campaign to the next made it clear that this was an anti-union package shopped to these employers.

Another law firm in the Chicago, Illinois area known for selling a similar campaign was known at the time as Wessels & Pautch. They too had a specific campaign of written propaganda which would develop similar themes. Although not as extensive as the Seyfarth Shaw campaign, it too would begin with appeals to the company as a family, and the need for employees to trust their employers. The Union then was portrayed as "fat cats" who would strike to collect dues. This campaign would also end with a prediction of a strike, and point out that Union by-laws would subject employees to fines, ignoring the fact that most employees do not become members of the union and thus subject to fines until after a first contract was reached.

It is obvious to me that these campaigns go well beyond mere "advice." It is only basic fairness that these law firms be required to report their activities.

Thank you for your consideration of these comments.

Very truly yours,

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



Bob Paddock
Business Agent