

Management Report

FOR
NONUNION
ORGANIZATIONS

Vol. XIX, No. 10

John Wiley & Sons, Inc.

October 1996

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NLRB Says Compliance with State Law Is Not a Defense for Establishment of a Safety Committee

Many employers are shocked when they hear from their legal counsel that employee participation committees—historically a critical management practice at many plants and even required by state law in some states—are viewed as illegal by the NLRB. The positive benefits of such committees and the good-faith intentions of employers that use them are irrelevant according to the Board. Even where the employer's motivation in using such a committee is unrelated to a desire to defeat unionization, the Board still finds that such committees violate the NLRA. If federal law conflicts with state law, the Board finds that federal law preempts state law on matters of NLRB jurisdiction.

In one such case, the NLRB General Counsel advised the NLRB region to seek disestablishment of a safety committee that the employer had created to comply with a state law. In accordance with state law, the committee consisted of members of management and employee members who reviewed safety proposals and made recommendations to management.

The General Counsel found the fact that the committee had been created in accordance with state law was not a defense, because the state law directly contradicted the NLRA and was preempted by it. (*Goody's Family Clothing, Inc.*, 21 MR Paragraph 31018) ■

The NLRB regional director's limited investigation was improper and violated the law, the court said.

Federal Court Orders NLRB To Investigate Charges of Election Fraud

Like an increasing number of employers that have battled the Clinton NLRB, Perdue Farms has gained a victory in federal court against the Board. The case concerned Perdue's allegation that there was massive forgery of union authorization cards by the United Food and Commercial Workers (UFCW) union in its attempt to organize workers at a Perdue plant.

The company had won two elections; the second election had been ordered by the Board after a finding of company unfair labor practices in the first election. Following the second election, the union once more asked the Board to nullify the election results due to alleged unfair labor practices (ULPs) by Perdue.

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Periodicals postage paid at New York, NY, and at additional mailing offices.

Subscription price (1996): One year: \$248 in U.S. and Canada, \$320 in Mexico and outside North America. All subscriptions outside U.S. will be sent by air. Payment must be made in U.S. dollars drawn on a U.S. bank. Claims for undelivered copies will be accepted only after the following issue has been received. Please enclose a copy of the mailing label. Missing copies will be supplied when losses have been sustained in transit and where reserve stock permits. Please allow four weeks for processing a change of address. For subscription inquiries, please call (212) 850-6479. E-mail: SUBINFO@jwiley.com

Postmaster: Send address changes to Management Report, Susan Malawski, Director, Subscription Fulfillment and Sales, John Wiley & Sons, Inc., 605 Third Avenue, New York, NY 10158.

Reprints: Reprint sales and inquiries should be directed to Customer Service Department, John Wiley & Sons, Inc., 605 Third Avenue, New York, NY 10158. Tel: (212) 850-8776.

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The court criticized the NLRB regional director for going ahead with the investigation of the union's ULP charges without first properly investigating the company's charges of forgery. Perdue provided sworn affidavits from two union organizers that the UFCW had ordered forgery of half the authorization cards the union had submitted to the Board to get an election. The regional director, who was not an expert in forgery, performed his own visual comparison of some of the signatures on cards with employees' W-4 forms supplied by Perdue. He concluded that while some of the signatures on the cards might be of questionable authenticity, the problem was negligible.

The court ruled that Section 9(c) of the NLRA requires the Board to conduct a proper investigation. The NLRB regional director's limited investigation was improper and violated the law, the court said.

The court issued a temporary restraining order against any further union elections at the Perdue plant. (*Perdue Farms Inc. v. NLRB*, 927 F. Supp. 897 (E.D.N.C. 1996)) ■

Newsweek Says, "It's Hip To Be Union"

"[A]nger over corporate cutbacks and meager pay hikes is giving the labor movement its biggest boost in decades," according to an article in the July 8 issue of *Newsweek*. Better market research and public relations, as well as the addition of hundreds of youthful labor organizers, are among the other factors cited as contributing to a better image for labor.

A *Newsweek* poll found that 62 percent of Americans approve of labor unions, up from 55 percent in 1981. Young people, age 18 to 29, were particularly positive about unions, with 68 percent viewing unions favorably.

"A very significant midsection of the population is open to labor's arguments again," said Republican pollster Kevin Phillips. ■

Union Dues Bill

A Republican bill proposed in the House of Representatives would require labor unions to obtain written permission from each union member for the union to spend dues money on purposes other than collective bargaining and contract administration. Republicans charge that union bosses spend significant amounts of union dues on legislative, political, or charitable causes that union members who pay dues do not support. ■

Preventive Tactics

Surveyed Companies Perceive Benefits from Work/Life Programs

Work/life programs such as flexible work scheduling, child care assistance, and employee assistance plans have become commonplace among employers, according to a recent survey by William M. Mercer, an international human resources consulting firm. The survey polled 800 employers,

(continued on page 4)