Foundation Action

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Foundation Hits SEIU Union with Election Law Complaint

Union officials funneled forced-dues dollars to candidates through America Coming Together (ACT) "527"

WASHINGTON, D.C. — As post-election complaints of union misdeeds flow in, National Right to Work Foundation attorneys have filed a formal complaint with the Federal Election Commission (FEC) against the Service Employees International Union (SEIU) for unlawful electioneering with workers' dues in 2004.

The complaint charges that SEIU union officials handed over tens of millions of dollars of workers' forced union dues to a so-called "527" political organization, America Coming Together (ACT). Some of those funds were, in turn, spent illegally to finance political campaigns through the Democrat National Committee (DNC).

Reports on the Foundation complaint hit the national news wires after it revealed substantial evidence and numerous statements by SEIU officials about their misuse of workers' forced union dues to fund ACT. In fact, SEIU union chief Andrew Stern stated in November "that SEIU is the largest contributor to America Coming Together at $26 million."

ACT spent over $100 million in last fall's elections to aid the campaigns of candidates that polls consistently show a large portion of rank-and-file union members do not support. Ironically, ACT claimed part of its goal was to ensure that "every vote counted," and yet Republican union members were fleeced for political funds devoted to effectively canceling out their votes.

"SEIU officials used the hard-earned wages of rank-and-file workers to bankroll the campaigns of hundreds of their hand-picked political candidates across America," said Foundation Vice President Stefan Gleason. "No one should be forced to pay compulsory dues to a union, especially when its officials continually abuse that government-granted special privilege."

Union officials appear to have used ACT to launder millions of dollars for their pet political candidates during the 2004 elections—hanging rank-and-file workers out to dry.

Money laundering flouts federal election laws

ACT used some of its ill-gotten funds to underwrite political fundraisers for the DNC. For example, ACT held fundraising events across America that raised more than $750,000 for the DNC at which attendees were given expensive art-work prints in exchange for individual donations of at least $1,000.

With tens of millions of dollars from the SEIU in hand, ACT mailed millions of direct mail pieces in the process of building a massive national network of political activists. ACT officials purport to have contacted 4.6 million voters at home, registered

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Foundation Battles Coercive Union Organizing of Tribes

Compacts skirt federal labor law to ensnare workers in forced unionism

FRESNO, CA — National Right to Work Foundation attorneys recently swung into action to curb a brazen new attempt by Big Labor to corral workers into forced unionism — this time on Indian reservations.

Last year, union officials teamed up with top California officials to deny employers who do business on a series of economically depressed reservations the right to ensure that their employees have the protections of a secret ballot election when choosing whether to unionize.

AP Photo

Despite running on a platform of "cleaning house," union officials seem to have Gov. Schwarzenegger's ear when it comes to imposing unions on California's Indian reservations.

In August, Governor Arnold Schwarzenegger signed gaming compacts with five of the Golden State's largest Indian reservations. The compacts, acting as the State's equivalent of a treaty, snuck in a requirement that casinos on California Indian reservations enter into so-called "neutrality agreements" with local union officials on any work performed in the building, maintenance, or operation of the facilities. Under such coercive agreements, union organizers are given full access to employees' personal information and company facilities to browbeat workers into signing union authorization cards that are counted as "votes" for unionization.

Foundation attorneys intervened in an arbitration for Jim Terrazas, an employee of Chukansi Casino and Resort, located near Fresno, after the Casino entered into a coercive "neutrality agreement" with the Hotel Employees and Restaurant Employees (HERE) union. Although many of the facility's workers revoked previously signed union cards during the unionization drive, the arbitrator installed the HERE union as the monopoly bargaining agent of roughly 700-800 workers. Foundation attorneys are currently pressing the arbitrator to recognize all previously revoked cards and decertify the unwanted HERE union as monopoly representative.

By participating in the arbitration, Foundation attorneys are not only helping the employees of the Chukansi Casino prevent unwanted union representation from being forced upon them, but they are also establishing a factual record that can be used to challenge the general legality of the Golden State scheme.

"The State of California and HERE union officials seem to be chomping at the bit to impose compulsory unionism on every living, breathing person they can," stated Foundation President Mark Mix. "If successful, union officials will rake in millions more forced-dues dollars while heaping ruin on these already struggling local economies."

Federal labor law preempts state action in private sector

Foundation attorneys are also calling on the U. S. Department of the Interior to withhold approval of the compacts, arguing that they clearly overstep the state's authority regarding matters of labor law that fall under the federal jurisdiction of the National Labor Relations Act (NLRA). In particular, federal law allows employers to insist that their employees get a secret ballot election to determine whether or not a majority of employees actually supports unionization. (While less abusive, even the election process has severe faults — most fundamentally, that members of a dissenting minority lose their right to select other representation or represent themselves.)

Foundation *Action*

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Michigan Imposes Forced Unionism on Catholic Schools

Foundation fights to prevent teacher union-boss interference with independence

BLOOMFIELD HILLS, MI — Foundation attorneys recently took action to oppose a brazen attempt by the state of Michigan to allow union organizers to impose monopoly bargaining on teachers who provide religious instruction at private religious schools.

In an *amicus curiae* (friend of the court) brief filed on behalf of the Acton Institute, a religious liberty public policy group, Foundation attorneys pressed the Michigan Court of Appeals to overturn a decision by the Michigan Employment Relations Commission (MERC) claiming that Brother Rice Catholic High School falls under the jurisdiction of Michigan's monopoly bargaining laws.

MERC members thumbed their noses at U.S. Supreme Court precedent by allowing union officials to target Brother Rice teachers for unionization and the MEA union to be declared monopoly bargaining representative for the teachers. If allowed to stand, the MERC ruling would open the door for union organizers at all religious schools in the state and, potentially, across America. Unless overturned, MERC's decision could ultimately result in union monopoly bargaining privileges extending into the school's hiring and firing practices, as well as serve as a benchmark decision for other private schools in Michigan and employment relations agencies in other states.

"In their lust for more compulsory dues, teacher union officials have again crossed the line — placing their own selfish interests above the wishes of people of faith. If they get away with it here, there is no question they will make similar power grabs elsewhere," said Foundation Vice President Stefan Gleason.

AP Photo

Teachers at Brother Rice are fighting to keep Michigan and MEA union officials from interfering with their ability to follow Church doctrine.

MERC decision tramples constitutional protections

Foundation attorneys point out in their arguments that federal constitutional law and U.S. Supreme Court precedent preclude state regulation of the religious institution, and that state supervision of a church school violates the Establishment Clause of the U.S. Constitution. They also argue that Catholic Church doctrine and the ideology of the MEA union are incompatible, and that Michigan state law was not constructed in a way to include Brother Rice in the jurisdiction of union representation and state regulation.

Although union officials claim that the intent of the legislators who drafted the Michigan law was, unlike Congressional intent, actually to include religious schools like Brother Rice, Foundation attorneys point out the gaping hole in this theory. In fact, when Michigan legislators wrote the state statute, the Labor Relations and Mediation Act (LMA), they literally copied directly from the federal National Labor Relations Act (NLRA), which exempts employees covered under the Railway Labor Act (RLA). Although the state statute would be superceded by both federal acts, the Michigan act only specifically mentions the RLA, because the legislators mindlessly copied language from the NLRA, resulting in a drafting error.

Union officials could hijack religious schools' operations

Foundation attorneys further cite in their brief that the U.S. Supreme Court ruled in *Lemon v. Kurtzman* that the government cannot foster "excessive government entanglement with religion." Foundation attorneys argue that MERC's oversight of collective bargaining agreements would amount to an "excessive entanglement" in church activities because the Commission has acknowledged that Brother Rice is "physically and financially" part of the Catholic Church. Additionally, since hiring practices at the school necessarily involve religious beliefs, the state could be asked to pass judgment upon church doctrine to determine whether the school's refusal to bargain over certain terms is legitimately based on religious belief.

"Big Labor must not be allowed to wreak the same havoc on private and parochial education as it has public education," stated Gleason. "That's why opponents of union coercive power have a duty to help targeted schools like Brother Rice to ensure their future independence from the clutches of union officials." The Court of Appeals heard on January 12, 2005.

Foundation Defends Union Members from New Attack

New power grab eliminates local accountability, consolidates power of top officials

WASHINGTON, D.C. — The National Right to Work Foundation has called upon the Department of Labor (DOL) to take decisive action against an attempt to eliminate the direct election of union officials by local union members.

Foundation attorneys recently urged the Department's Office of Labor Management Standards to reevaluate its regulations which have enabled International Brotherhood of Carpenters and Joiners (Carpenters) union chief Douglas McCarron to commence a radical "restructuring" of the union. Fearing that rank-and-file workers might someday vote him out of power, McCarron removed significant authority from some 2,200 local unions — whose officers are elected directly by union members — and consolidated power in the hands of his 55 handpicked regional "councils." When the action was challenged before DOL, Clinton Secretary of Labor Alexis Herman upheld the power grab as lawful. Current Secretary of Labor Chao has not yet reversed the Clinton-era policy.

AP Photo

Bush Secretary of Labor Elaine Chao may revise regulations that have been perverted to strip union members of their right to directly elect key union officers.

Foundation attorneys point out that allowing union bosses across the country to follow McCarron's lead will effectively end rank-and-file workers' already limited ability to control their unions and hold union hierarchy accountable.

"Rank-and-file workers, not Big Labor bosses, ought to dictate union activities," said Foundation President Mark Mix. "By removing workers' ability to directly elect the union officers who call most of the shots, top union officers are simply trying to cement themselves in positions of power."

Carpenters' bosses strip rank-and-file of voting power

A case known as *Harrington v. Chao* arose when McCarron consolidated locals across six states into a single regional block called the New England Regional Council of Carpenters (NERCC), controlling a massive 27,000-member bloc of workers. Under the new hierarchy, local members could only elect delegates who then, in turn, elected the NERCC's top officers. Even though NERCC engaged in bargaining and exercised sweeping control over the jobs of union members, the members were not allowed to elect those officers directly as federal law requires. Federal law has long allowed officers of "intermediate" and "national" union entities to be selected by openly undemocratic means.

In September of 1999, Thomas Harrington (a former local union official) and six other rank-and-file NERCC union members filed a formal complaint with Secretary Herman asserting dues-paying members' rights to elect union officers under federal law, but Herman endorsed the consolidation.

Later, top DOL officials appointed by President George W. Bush chose not to overturn Herman's decision and submitted a "Statement of Reasons" listing why union members should be denied a direct vote. The U.S. Court of Appeals for the First Circuit later remanded the case to DOL, and requested a supplemental statement of reasons explaining why it could abandon a long-standing DOL policy.

The First Circuit ultimately gave deference to the Department's position — but with deep skepticism. Although the NERCC seems to be serving the functions of a local union, such as negotiating over wages, its classification as an intermediate body prevents direct election of officers. Accordingly, the Department announced its willingness to reevaluate its regulations.

In their official comments, Foundation attorneys noted that Congress enacted the Labor Management Reporting and Disclosure Act (LMRDA) in 1959 to return to rank-and-file workers a measure of the power that was stripped from them by the federal policy of compulsory unionism created during the New Deal. While leaving union officials' compulsory unionism privileges intact, the LMRDA constructed a regulatory regime intended to empower individual union members.

Foundation attorneys argued in their comment that the Secretary should therefore give the strongest weight to employees' interests when evaluating whether the Department's current application of the LMRDA adequately deters employee disenfranchisement from vital decisions involving their employment and their livelihood.

"Even so, eliminating the ability of top union officials to consolidate their power at will is only a band-aid," stated Mix. "Only ending compulsory unionism altogether will ultimately make union officials truly accountable to the rank-and-file."

NLRB Pushed to Issue Complaint in Hotel Workers' Battle

Union officials defend outcome of tainted "card check" drive while hotel yields

Sheraton Photo (www.starwoodhotels.com)

UNITE-HERE union officials' coercive union drive at Four Points Sheraton in Santa Monica has blown up in their faces.

SANTA MONICA, CA — National Right to Work Foundation attorneys have convinced the General Counsel of the National Labor Relations Board (NLRB) in Washington, DC, to order issuance of a formal complaint and the prosecution of the recently merged UNITE-Hotel Employees and Restaurant Employees (HERE) union and the Four Points by Sheraton Hotel for unfairly corralling workers into union ranks against their will.

The Sheraton case is one of several lead cases filed by Foundation attorneys challenging new coercive organizing tactics that are sweeping the nation.

An NLRB regional office will soon issue a formal complaint and schedule a hearing to prosecute the union and employer in response to federal unfair labor practice charges filed by six employees at the Santa Monica hotel challenging a coercive union organizing drive that, they charge involved threats, bribes, and fraud.

While the regional office initially dismissed the charges in February 2004, Foundation attorneys appealed and successfully persuaded NLRB General Counsel Arthur Rosenfeld that there was not a clear majority of workers in favor of the union. Rosenfeld has ordered prosecution of the union and the hotel.

"Sheraton Four Points employees should be permitted, once and for all, to have in a voice in whether they are unionized," said Stefan Gleason, Vice President of the National Right to Work Foundation. "It's an outrage that the hotel struck a backroom deal with UNITE-HERE union officials to deny these workers any real freedom to decide their own representation."

So-called "card check voting" opened door for worker abuse

Under "card check agreements," employers are induced to waive their employees' ability to vote in a secret ballot election and typically agree to provide other assistance to the union in pressuring employees to unionize. These pacts often include unlawful pre-arrangements over substantive terms and conditions of employment, such as health care, wages, or compulsory union dues.

Because many Four Points workers felt harassed into signing union authorization cards, and many had revoked previously signed cards, the employees disputed the union bosses' claims that a majority of Sheraton workers actually support the union. There are also concerns as to how the card count was conducted. The charging employees are asking the agency to bar UNITE-HERE union officials from bargaining on their behalf. An NLRB Administrative Law Judge will hold a hearing on the case early in 2005.

> *"It's an outrage that the hotel struck a backroom deal with UNITE-HERE union officials to deny these workers any real freedom to decide their own representation."*

Foundation attorneys trigger NLRB action

Rosenfeld's memo is the latest in a series of precedent-setting orders that started last fall. All involved unfair labor practice complaints in cases challenging Big Labor's now-predominant, coercive "card check" organizing method. Foundation attorneys convinced Rosenfeld — widely viewed by management and Right to Work leaders as a lethargic and less-than-effective Bush appointee — to issue complaints based on unfair labor practice charges filed by workers who found themselves targeted for organization by the unwanted United Auto Workers (UAW) union at Freightliner's Gaffney, South Carolina, facility and Dana Corporation's plants in Bristol, Virginia, and St. Johns, Michigan.

"Increasingly unable to sell workers on union membership, union officials have resorted to coercive tactics such as so-called 'neutrality' agreements and the in-your-face 'card check' solicitation process to intimidate workers into supporting a union," said Gleason. "Slowing and punishing Big Labor's use of these organizing tactics is a high priority for the Foundation, and the outcome of these battles will shape howunions are organized in the future."

FEC Complaint

continued from cover

500,000 new voters, and mobilized 40,000 volunteers on Election Day. Meanwhile, in statements made to the press earlier this year, Stern openly bragged that SEIU officials intended to bankroll ACT political activities with funds paid by "regular dues-paying members".

Evidence surfaced that the massive "America Coming Together" 527 began shredding thousands of documents just as the Foundation filed its case at the FEC.

Under federal law, union officials must not contribute to federal political campaigns using "dues, fees or other monies required as a condition of membership in a labor organization." In making such contributions, the Foundation's complaint points out, SEIU union officials violated the rights of workers who are required, as a condition of employment, to make forced-dues payments to the union but who may not agree with the political aims of SEIU officials, ACT, or the DNC.

The unlawful money laundering was in addition to the tens of millions of coerced dues dollars that SEIU officials spent in the 2004 election cycle to send union-paid workers on one-year "leaves of absence" from their jobs to campaign full time for union pet political causes and candidates in 17 battleground states.

Foundation turns up heat while ACT shreds potential evidence

The Foundation's complaint garnered immediate press attention on Fox News and CNN. A national wire story appeared in dozens of newspaper headlines across the country and on scores of Internet news websites. Among those alarmed by the SEIU union and ACT group's actions was Jeffery A. Williams, a police officer and President of Fraternal Order of Police Lodge 25 in Orlando, Florida, who supplied Foundation attorneys with disturbing photos and a sworn statement after hearing about the complaint in a news story.

The photos reveal numerous bags of newly shredded documents at a central ACT office just as word of the Foundation's case hit the wires. It is suspected that similar shredding occurred at numerous ACT offices across America. Foundation attorneys used the evidence to urge the FEC to prevent ACT from destroying any evidence potentially relevant to the investigation by obtaining immediately a federal court injunction halting the document shredding.

Big Labor re-doubles efforts to block progress in 2005

While Foundation attorneys press the FEC to address the Foundation's complaint, sums spent by union-front committees like ACT are merely the tip of the iceberg. The real political muscle comes through the hundreds of millions of dollars in forced dues spent each election year by union officials on partisan voter registration, get-out-the-vote drives, cleverly crafted issue ads, and boiler-room phone banks. Though its efforts to conquer the White House in 2004 narrowly failed, Big Labor's formidable forced-dues funded political machine will be focused in 2005 on defeating efforts to enact reforms favoring individual rights and free enterprise.

AP Photo

SEIU chief Andrew Stern openly bragged that he was bankrolling ACT political activities with funds taken from "regular dues-paying members."

Meanwhile, ACT officials have begun beating their chests about future plans, which, as ACT head Ellen Malcolm told the *Washington Post*, "means Democrats are going to win an awful lot of elections." "Big Labor's political machine is just gearing up to block Right to Work efforts in Congress this year," said Gleason. "Union officials are bent on preserving their power, and will fiercely resist any attempt to curb their government-granted special privileges in the coming years."

School Bus Drivers Vote Out Unwanted Teamsters Union

Foundation attorneys successfully aid challenge to stifling of free speech

ANCHORAGE, AK — A recent union decertification election will remove Teamsters Union Local 959 as the "exclusive bargaining representative" of more than 200 Anchorage-area school bus drivers and attendants.

The decertification comes after National Right to Work Foundation attorneys helped First Student, Inc., employees successfully challenge the results of a previous union decertification election in which Teamsters officials narrowly prevailed — but only after company officials unfairly limited employees' rights to campaign against the union hierarchy. Their employer, First Student, Inc., provides school bus services to the Anchorage School District.

Teamsters officials stonewalled workers' decision

School bus driver Jayne Larrassey filed objections to an unsuccessful decertification election held earlier in the year in which the Teamsters union narrowly maintained its status as the workers' monopoly representative after company officials stifled her freedom of speech. A three-member panel of the NLRB ruled to set aside the earlier election, finding that it had been tainted, and ordered that a new election be held. Ultimately, the drivers and attendants voted to decertify the union, 105–83.

In its ruling, the Board affirmed findings of "serious and extensive" company interference, because company officials had enforced an "overly broad rule" limiting employees' rights to distribute pro-decertification literature in the campaign leading up to the election.

Union militants tried to short-circuit election

First Student officials' discriminatory policy of silencing dissent stemmed from a private conversation between First Student manager Deborah Daniels and Teamsters union shop steward Brooks Gaines. According to testimony, the company official informed Gaines that no literature would be allowed to be distributed during the decertification campaign.

Not knowing of the policy change, Larrassey distributed materials in a manner consistent with the company's long-standing written policy, the verbal advice of a former company contract manager, and her recollection of literature distribution practices during previous union drives. Records obtained by Foundation attorneys further indicate that, over the past year, Teamsters union agents distributed materials related to forced-dues check-off cards, letters ridiculing pro-decertification employees, and other literature on company property without undergoing retaliation from the company.

Larrassey distributed flyers in the company parking lot promoting the decertification of the Teamsters as monopoly bargaining agent. Once all of the cars had been covered, she departed on her morning bus route. Shortly after Larrassey left, union activists quickly seized the flyers from the vehicles and turned them over to union steward Gaines, who then reported the incident to Daniels.

As she returned from her route, Larrassey noticed that all of the cars had been stripped of the flyers. Daniels immediately called Larrassey into her office and ordered her not to distribute campaign materials on company property. Additionally, Daniels told Larrassey that this was her "verbal warning," and any further action designed to circulate pro-worker literature was subject to formal discipline.

Larrassey was reprimanded a second time on the day of the election simply for standing in a non-work area and reminding people to vote. The union steward saw her approach voters and recommended to Daniels that she stop

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AP Photo

Jimmy Hoffa's union goons tried to suppress free speech and delay a fair election for over 200 Anchorage bus drivers and attendants.

Bus Drivers Win

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the activity. Larrassey was subsequently relegated to campaigning in a less conspicuous place.

Foundation effort pays off

Teamsters officials have filed frivolous objections to the decertification election that were heard by the NLRB's Alaska Region on January 4, 2005. If, as expected, the objections are rejected, First Student employees will be free to negotiate their own terms and conditions of employment and be rewarded on their individual merit. Under the law, after official decertification, Teamsters union officials will have to wait at least a year before embarking on any new attempt to corral First Student bus drivers and attendants into union ranks.

"Despite the best efforts of Teamsters officials to stifle dissent, First Student bus drivers will be able to determine their own future in an atmosphere free from coercion," said Raymond LaJeunesse, Vice President and Legal Director of the National Right to Work Foundation.

Free Newsletter

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Message from Mark Mix

President
National Right to Work
Legal Defense Foundation

Dear Foundation Supporter:

Big Labor is gearing up for new battles in 2005.

And the National Right to Work Foundation is in their crosshairs.

In the last year, the union bosses spent an estimated $925 million building and fueling a massive and highly sophisticated political machine. Now, they're going to use it as they fight battles at the state level, in the U.S. Congress, and especially at the National Labor Relations Board (NLRB).

Many of the battles just ahead at the NLRB concern Big Labor's coercive new Top-Down Organizing tactic. Using this tactic, union officials bully employers into accepting "card check agreements" that allow unions to force workers into compulsory unionism without even the minimal protections of a secret ballot election.

With Foundation assistance, workers across the nation are fighting back against this union boss power grab. And finally, the NLRB is starting to respond.

In this issue of **Foundation *Action***, we highlight the struggle of one group of workers, at the Sheraton Four Points Hotel in Santa Monica, California, to escape from the clutches of forced unionism. Now the NLRB General Counsel has sided with the workers, and ordered the prosecution of Hotel Employees and Restaurant Employees (HERE) union officials and the hotel.

But these battles against Big Labor's new coercive tactics are just beginning. Many will involve action at the NLRB, where pro-forced unionism bureaucrats are still influencing decisionmaking.

The election returns offer us a window of opportunity on battles like Top-Down Organizing to achieve lasting victories in the coming year. But this is no time to be complacent.

That's why I need to know I will have your continued support for the Foundation's program now and throughout the coming year.

Sincerely,

Mark Mix