

# **BEWARE OF MANAGERMENTS UNION BUSTING TACTICS**



**IN EVERY ANTI-UNION CAMPAIGN  
THERE IS A UNIONBUSTER**

# Beware of Managements UNION BUSTING Tactics

Once You Decide to Unionize,  
Management WILL Hire a  
High Priced Union Busting  
Consulting Firm who's sole purpose  
is to try to **STOP YOU** and your  
Fellow Workers From UNIONIZING



Steve Maritas Former Organizing Director  
SPFPA International Union



Once You Conquer the FEAR of the Unknown then a Union Busters  
Biggest Weapon Will Be Gone and You and Your Co-Workers  
Will Successfully WIN YOUR UNION ELECTION!

# Beware of Managements UNION BUSTING Tactics

The Purpose of this section is to inform and educate WORKERS and Union Organizers about what to expect from management in regards to Union Busting Terrorist Tactics used during union campaigns by management and their consultants in their attempt to defeat their employees from forming a union.

## WHAT IS Union Busting?

Union-busting is a practice that is undertaken by an employer or their agents to prevent employees from joining a labor union, or to disempower, subvert, or destroy unions that already exist.

Union busting is a field populated by bullies and built on deceit. A campaign against a union is an assault on individuals and a war on truth. As such, it is a war without honor. The only way to bust a union is to lie, distort, manipulate, threaten, and always, always attack.

**Martin Jay Levitt, 1993, Confessions of a Union Buster**



Your right to form or join a union is protected under U.S. Federal Law. Specifically, Section 7 of the National Labor Relations Act (NLRA) states:

“Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid and protection.” - Please Note: Your Section 7 Rights only apply if you and your co-workers can withstand the "Psychological Warfare" you are going to experience by management and their Anti-Union-Busting attorneys, consultants and persuaders over the next 42 days preceding your Union election.

**Psychological Warfare Defined:** "The planned use of propaganda and other psychological actions having the primary purpose of influencing the opinions, emotions, attitudes, and behavior of hostile foreign groups (UNION SUPPORTERS) in such a way as to support the achievement of national object.

# Beware of Managements UNION BUSTING Tactics



## **New Report Finds Increase in Union Busting Tactics**

An increasing number of private sector employers are adopting union-busting tactics that include coercion, intimidation, and retaliation to discourage workers from forming union, according to a new report by American Rights at Work and the Economic Policy Institute that analyses data of employer behavior during union elections from 1999 to 2003.

During this period, employers threatened to fire workers 57 percent of the time, compared to 29 percent during the mid-1980s, and actually fired employees 29 percent of the time, up from 18 percent in the mid-1980s. Employers also threatened to cut wages and benefits 47 percent of the time to delay elections. In addition, 60 percent of employers compelled their workers to attend one-on-one sessions with supervisors, where workers are often harassed because of their involvement in union campaigns.

Immigrant workers are particularly vulnerable to union busting. In about half of all the cases studied where a majority of the workers were undocumented immigrants, employers threatened to notify Immigration Customs and Enforcement of their status. Employers used this threat in 41 percent of cases with recent legal immigrants as well.

To help strengthen the right to organize, the report says, Congress should pass the Employee Free Choice Act, which requires employers to recognize a union once a majority of workers sign a card authorizing its creation and imposes stiff penalties and fines for employers that repeatedly violate the law. The Employee Free Choice Act is currently pending in Congress.

# Beware of Managements UNION BUSTING Tactics



## Unionbusters 101

### Facts and Frequently Asked Questions about Unionbusting

#### What is Unionbusting?

The term UnionBusting describes the planned course of action to stop workers from organizing a union or to destroy a union already in the

## Who are Unionbusters?

Unionbusters are professional consultants or lawyers, who may represent a legal consortium or consulting firm. These individuals or firms advertise their ability to manipulate the labor law system and specialize in advising employers on how to thwart union organizing drives or how to decertify unions. Unionbusters usually self-identify as 'union avoidance firms,' 'management consultants,' or 'labor consultants.'

### What do Unionbusters Do?

Unionbusters offer legal services, advice and consultation, training seminars, workshops and materials for management and supervisors, and a variety of targeted anti-union propaganda for distribution to employees, including videos, posters, leaflets, flyers and giveaways.

Unionbusters' sophisticated advice, training and materials help an employer create a sense of dissension and division among employees during an organizing campaign and spread misinformation about the union before workers vote in a union representation election. Additionally, "consultants advise management on how to stall or prolong the bargaining process, almost indefinitely—bargaining to the point of boredom..."

# Beware of Managements UNION BUSTING Tactics



## Why Haven't I Heard of These Firms?

Unionbusters operate under the radar intentionally. Unionbusters often provide material and instructions behind the scenes while the employer's management and middle-management/supervisory staff carry out the actual communications with workers. In this way, the unionbuster does not deal directly with employees and, as a result, may avoid having to disclose financial reports about such activity to the U.S. Department of Labor.

The unionbuster's name or firm is not used or referenced in the anti-union materials distributed to employees, further masking the unionbuster's involvement in orchestrating the anti-organizing campaign. More importantly, the anti-union company is rarely called on to divulge that it hired a unionbuster or reveal the specifics of such expenditures. Therefore, without a paper trail, unionbusters are hard to detect, underreported, and not in the public eye.

## Who Uses Unionbusting Firms?

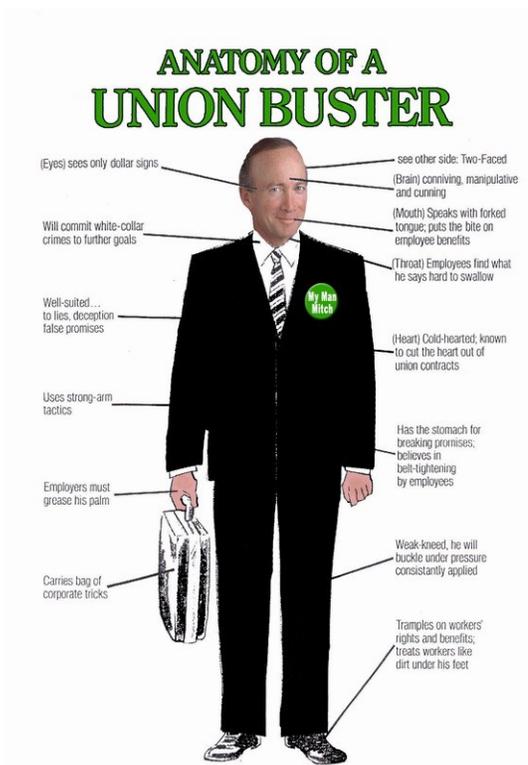
**75 percent of employers facing a union organizing drive hire anti-union consultants.**

How Successful are Unionbusters? It is no coincidence that as the unionbusting industry has grown, the rate of union membership has declined. A unionbuster recently profiled in FORTUNE magazine had 'won' 32 of 35 organizing drives in 2003 for his clients.<sup>3</sup> Unionbusters even go so far as advertising their rates of success. One firm, Labor Relations Institute, now boasts a money-back guarantee on its website: "If your organization purchases an LRI Guaranteed Winner Package and the union becomes certified, the Labor Relations Institute will refund the full cost of the package."

# Beware of Managements UNION BUSTING Tactics

## Spotlight on Union Busters: FEAR is a Union Busters Best Friend

Once the Majority of Workers initiate organizing a UNION at their workplace 90% of the time your employer will hire a UNION-BUSTER to run a campaign against you.



During this campaign, beware of the fact that management and THEIR TEAM of Union-Busters Consultants and Lawyers will try everything in their power to deceive you in their attempts to keep control. In principle, no employer wants to give up control to its employees. That is why employers will use every tool at their disposal.

They'll use letters, rumors, threats, phony committees, captive audience meetings, special perks, videos, fear, scare tactics, lies about corruption and anything else they can think of to convince you to vote no.

These methods are contained in standard propaganda packages developed and sold by highly paid professional "union-busting" consultants (paid approximately \$1,000 - \$1,500 a day plus expenses). Most times a typical campaign will run in the hundreds of thousands of dollars depending on the size of the campaign.

**These UNION - BUSTING campaigns are designed to confuse workers into thinking that they don't want or need a Union.**

# Beware of Managements UNION BUSTING Tactics

## Spotlight on Union Busters: FEAR is a Union Busters Best Friend

Don't allow some highly paid "consultant", sometimes disguised as Human Resource Personnel to tell you how to think. Don't be distracted - even by a small group of employees who may be misled by management and are campaigning against you and your right to form a Union.

### **THESE "UNION BUSTERS" TELL MANAGEMENT WHAT TO DO.**

Following is a checklist of tactics "union busters" use to try to defeat union campaigns.

Use this guide to prepare yourself and your colleagues for what will happen. Keep track by checking off each tactic your employer and their team of UNION-BUSTING Thugs and your supervisors will attempt to use to try to **DEFEAT YOU!**

### **PRESSURE FROM SUPERVISORS:**

Supervisors will be front-line troops against the union delivering letters, informal chats and speeches prepared by the "Union Busters."

### **LETTERS, LEAFLETS, MEMOS AND MORE MEMOS:**

The "Union Busters" will write you many letters and hand out lots of leaflets during the union organizing campaign... only the letters will be signed by upper management, or the Human Resource Personnel - not the Union Busting consultants.

### **INCREASES IN PAY:**

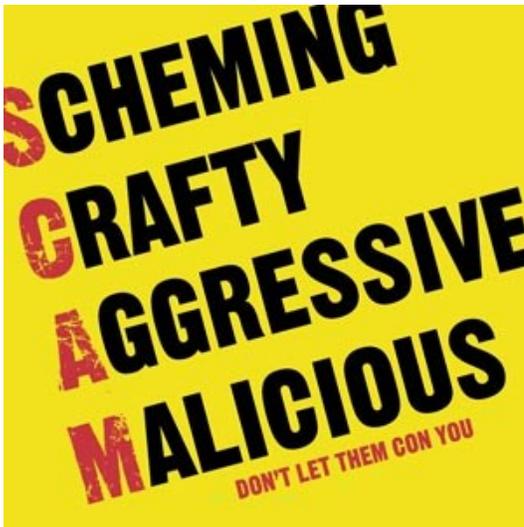
They may tell you, you don't need a Union to get wage increases, and they were about to increase your pay just prior to the start of the organizing campaign. They may even tell you now that the Union is here they can't by law give you a raise but would like to give you a dollar raise. **DON'T BE FOOLED.**

### **LOVE LETTERS:**

In some of the letters, the "union busting" consultants will have management say how much they really appreciate what all of you do for the organization. They might even admit mistakes! They want to convince you that the "boss" is really a good person who can be trusted with your future.

# Beware of Managements UNION BUSTING Tactics

## Spotlight on Union Busters: FEAR is a Union Busters Best Friend



### THE UGLY UNION LETTERS:

Most of the letters will paint a pretty ugly picture of the union. Management will want you to think the union is just out for money. They will even refer to the union as a "Third Party." The FACT is, the workers ARE the union - they form the collective voice. The officers will elect their own representatives and will decide what issues they wish to promote and negotiate.

**LOVE OFFERINGS:** The "Union Busters" will tell management to give you some unexpected perks (i.e. bonuses, paid lunches, parties, etc...) They want you to believe you don't need a union to get good things and improve security.

**LET'S BE PALS:** Management and their RATS will be everywhere. Walking the floors - on every shift. Setting up spur-of-the-moment chats so he/she can find out what's on your mind. "Don't let a 3rd party come between our wonderful relationship!" BEWARE !

**ONE-ON-ONES:** Your supervisors or their human resource personal may call you in for face-to-face talks about the union. You have no choice if they insist, however, you do have the right to ask a fellow employee to sit in with you. Also, you do NOT have to divulge your interest in the Union. and their supervisors have been told what to say by the "union buster consultants." So Beware!

**DIVIDE AND CONQUER:** They will try to play one group against the other: "Disloyal" union supporters against "loyal pro-employer" union opponents; men vs. women, older vs. younger, day shift vs. night shift, one department against another - whatever works for them.

# **Beware of Managements UNION BUSTING Tactics**

## **Spotlight on Union Busters: FEAR is a Union Busters Best Friend**

### **"VOTE-NO" COMMITTEE:**

A small group of employees might be set up to "stand up" for the employer. They want to "save" the organization from the Union. The "Union Buster" is behind this committee and is training the leaders to destroy the union organizing efforts.

### **CAPTIVE AUDIENCE MEETINGS:**

Employees might be required, on paid time, to attend meetings where top management will deliver a speech. It is not an open debate. Remember Don't be Fooled by Union-Busting Propaganda.

### **SCARE TACTICS**

Management's biggest weapon is Fear. Beware of threats of Outsourcing your Job Tactics. This is common in every Union Campaign. Remember - presently you are a, AT-WILL – EMPLOYEE with No Rights, No Voice or No Job Security. You can be FIRED or Replaced by management at anytime ! Don't be Fooled ! Only by Unionizing, can You Legally Protect you JOB !

**U are the UNION and If U want a VOICE to Negotiate Your Wages, Benefits, Job Security and Working Conditions U must Stand Up and Be Heard !**

Remember: 99% of ALL UNIONS Do NOT charge Initiation Fees as management would like you to believe. Nor do they charge any monthly dues (which UNION members call Job Security) until your UNION negotiates on your behalf your written contract and the majority of officers of VOTE to accept its terms and conditions. That's the way the FPSOA does business.

**If YOU work in a RIGHT – TO WORK STATE ALL DUES ARE VOLUNTARY NOT MANDATORY** as management would like you to believe.

**In reality no worker would vote to accept a union contract if they were to receive less. This result is a WIN WIN situation for every worker who are looking to unionize to gain the wages benefits, A Voice and RESPECT you deserve!**

# **Beware of Managements UNION BUSTING Tactics**

## **Spotlight on Union Busters: Fear Is managements Weapon of Choice !**

The irony of union busters is that management is extremely fearful of “losing control” of the workplace and sharing power with its workforce in the form of a union. Yet they happily hand over control of the workplace to the union busters they hire who do exactly that—directing the entire campaign and in effect taking control of the workplace by telling management and supervisors what to say, what to do and how to act. The money that management squanders on these union busters would be much better spent on dealing with the real workplace issues.

# **hypocrite.**

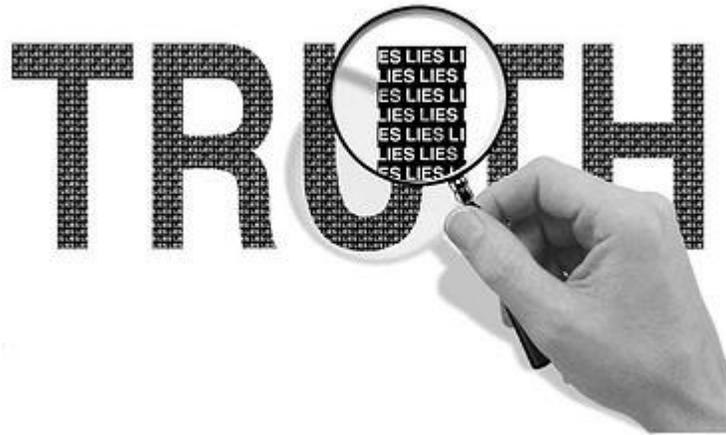
**Hypocrisy is the state of pretending to have beliefs, opinions, virtues, feelings, qualities, or standards that one does not actually have.**

**Hypocrisy involves the deception of others and is thus a lie.**

# Beware of Managements UNION BUSTING Tactics

## Common Misconceptions and the TRUTH about UNIONIZATION

Management will always oppose a union, that's a fact. Your managers and supervisors will employ empty promises, lies threats and intimidation tactics when you try to organize. Management has been using these deceptions for years, however when these tactics are exposed for what they are, security professionals like yourself vote in favor of Unionization!



**Deception # 1** Supervisors usually come around asking for another chance to change problems on the job, once an organizing drive gathers some momentum. The company may tell you that they didn't know you and your co-officers were dissatisfied. Your supervisor may well start treating you better and showing new concern for your well-being.

**The TRUTH:** When workers give the company a second chance, they are always bitterly disappointed. Once the pressure is off, the company rarely changes. In most cases, your chance of winning an organizing drive is best the first time around. Don't be tricked out of your first, best chance

**Deception # 2** Although it is illegal, the company will say you'll be bargaining from scratch. Management will tell you that when you negotiate a contract, you may lose the wages and benefits you already have.

**The TRUTH:** It is illegal for an employer to threaten to reduce benefits if a union is voted in. when you negotiate a first contract, you start from the pay and benefits you already have and build on them. You are the union and you and your co-officers decide what to ask for in your contract.

# Beware of Managements UNION BUSTING Tactics

## Common Misconceptions and the TRUTH about UNIONIZATION

**Deception # 3** The Company will tell you you'll never benefit from a UNION Contract because they'll never sign one. Since it is illegal to say this directly, they may say, "Remember we don't have to agree to what the union wants in the contract".

**The TRUTH:** Your company is legally required to negotiate with the union you choose. Every company talks tough before workers organize; don't let them bully you. It's in the company's interest to keep its employees satisfied and keep the work flowing. Once you present them with reasonable contract proposals, management usually compromises.

**Deception # 4** Although it is illegal, the company may tell you that if the union is voted in they'll replace you and your jobs by outsourcing its security department to a non-union company.

**The TRUTH:** It is illegal for an employer to threaten you or your jobs for trying to organize a union. The bottom line is the National Labor Relations Act Section 7 protects your rights to organize and makes it illegal for an employer to outsource your jobs and/or replace you for voting in a union.

**Deception # 5** Management may tell you that a union can force you out on strike whether you want to go or not. They may threaten that if you leave your job for a strike you could lose it forever. They may ask you how your family will survive if you are forced out on strike.

**The TRUTH:** When a company threatens that a union will force you out on strike, they break the law. No union can force you to strike. No union wants to strike. Strikes only happen when the company refuses to bargain in good faith with the union and its employees. In any event a strike is a decision voted upon by you and your co-officers. If the majority officers don't want to strike, there is no strike! Almost 99.9 percent of all union contract negotiations are resolved without a strike.

# Beware of Managements UNION BUSTING Tactics

## Common Misconceptions and the TRUTH about UNIONIZATION

**Deception # 6** The Company will tell you that the union just wants your money. They may lie about the amount of dues and/or initiation fees you will pay to be a member of a union. They may also tell you, you'll have to pay dues immediately after voting for a union. This is a Lie!

**The TRUTH:** 99% of unions do not charge Initiation Fees these fees are waived during a organizing drive. As far as dues are concerned once again I know of no union which charges a newly organized group any dues until a union negotiates your Written Union Contract. Most unions also allow you to ratify your contract so you see what your getting prior to paying any dues.

**In Right – To Work For Less States ALL DUES ARE VOLUNTARY NOT MANDATORY!**

When you compare your present pay, benefits, working conditions and the lack of job security vs. improvements in pay, benefits, working conditions and job security spelled out in a Written Union Contract, the cost of belonging to any union should far exceed the monthly dues which our members call JOB SECURITY.

**Deception # 7** Your employer will tell you “The Union can't guarantee you not one cent” and that you may well lose your wages and benefits by voting for a UNION.

**The TRUTH:** Right now you are an at-will employee and can be fired at anytime without any rights or Federal or State laws protecting you! The truth is with a UNION, you at least have laws protecting your rights in the event of retaliation and the right to negotiate a legal and binding contract that indeed does GUARANTEE you the wages, benefits, and Job Security you all deserve!

### GUARANTEE PROTECTION

Under the Law from the time you start your campaign you win your **UNION election are certified by the National Labor Relations Board and negotiate a written union contract, the law states that an employer CANNOT unilaterally change any present terms and conditions without first negotiating them with your UNION!**

**Remember YOU are the UNION ! .....and the last thing your Employer wants is to give YOU and your Co-Officers the POWER to Enforce a Written Union Contract Protecting Your Rights !**

# Beware of Managements UNION BUSTING Tactics

## Seven Sophisticated Unionbuster Techniques

**Supervisors as Frontline Soldiers:** Supervisors, who themselves have no legally protected right to be represented by a union, are manipulated into delivering anti-union letters, speeches, and informal chats prepared by unionbusters, essentially doing the dirty work of the unionbusters and management.

**One-on-One Meetings:** During organizing drives, 78 percent of workers are forced to attend closed-door or isolated meetings with supervisors.<sup>5</sup> These aren't friendly impromptu chats, but well-planned meetings to decipher employees' feelings about the union and persuade them against the union.

**Captive Audience Meetings:** So-called 'captive audience' meetings are held for employees during work hours to disseminate propaganda against union representation and to attempt to discredit the union. Employees are almost always required to attend, but union organizers may be intentionally disinclined. Often, the meetings are rigged so that workers who are already against the union are assigned to ask questions to sow misinformation.

**Delay:** Unionbusters often attempt to delay union representation elections by legal maneuvers so they have more time to implement other tactics needed to increase tension, dissension and the employer's chance of winning the election.

**Divide & Conquer:** The unionbuster creates opportunities and crafts persuasive messages to make employees feel that there is a tense division among staff concerning the union election. They may go so far as to pit one group of employees against each other, based on race or ethnicity.

**Letters, letters, letters:** A unionbuster's specialty is hammering out materials—be it cartoons, leaflets or management correspondence—to make the case against the union. 92 percent of companies involved in organizing drives mail anti-union materials to employees' homes.

**Love offerings:** In order to convince employees that they don't need a union, unionbusters may advise clients to provide indirect bribes, like unexpected increases in wages or benefits or 'feel good' measures like free food and lottery tickets.



# Beware of Managements UNION BUSTING Tactics

## Spotlight on Union Busters

Since 1935, the law has provided two ways for employees to express the choice to be represented by a union: majority sign-up or a NLRB Election. Organized labor's top legislative goal this year is passage of the federal Employee Free Choice Act, which would allow formation of a local labor union branch if a majority of employees sign union cards. Opponents, who favor continued secret ballots, say the act would invite undue peer pressure to sign a union card. President Barack Obama supports EFCA, but Democrats are short of the 60 Senate votes needed to assure its passage. Here are views, pro and con.



The EFCA would contribute to economic recovery by making it easier for workers to bargain for improved wages, hours and working conditions. It would not take away the right of employees to vote on whether to form a union.

Employee sign-up was legal even before the National Labor Relations Act was passed. When a majority of employees had signed cards or petitions designating a union as their representative, the employer could legally negotiate with the representative. The act was interpreted as giving the company the right to decide whether the employees would choose a union through majority sign-up or through an election conducted on the company's premises.

The process of forming a union with or without the Employee Free Choice Act would remain the same.

The only difference would be if the Employee Free Choice Act should be passed is that:

The EFCA would give employees, rather than the company, the right to decide which method to use.

# Beware of Managements UNION BUSTING Tactics

## Spotlight on the Union-Busters



It's time for a closer look at the anti-union consultants who have been a prominent feature of the labor-management landscape since the early 1970s, quietly developing, marketing and fine-tuning their programs and tactics on behalf of employers.

Their basic goal and the fondest wish of those who hire them is, of course, to keep unions out of workplaces or to decertify established unions. When negotiations can't be avoided or delayed any longer, they take a new tack: meet with the union but try to make bargaining as onerous and excruciating as possible.

In extreme cases, the employer-consultant team will not only "go through the motions" of bargaining, but will fabricate some crisis that provokes the union to strike and allows the employer to replace the entire work force with people who are younger, cheaper and "more flexible" (that is, easier to control).

Union people from the local level to the largest internationals have long sought to counter such brazen aggression and regain a level playing field for genuine collective bargaining. Knowing the enemy who may be hiding behind the boss is often the key to success for organizers.

# Beware of Managements UNION BUSTING Tactics

## They Work Behind the Scenes

Always assume that the union-busting consultant has sold your boss on a "3-C" strategy: conceal, camouflage, and operate clandestinely. Rarely will the consultant reveal himself during a "preventative campaign," certainly not to anyone eligible to vote in a representation election. Realizing that to occupy center stage is to reveal the employer's and his own motives, the consultant will stay behind the scenes, advising corporate officers and middle managers on what to say and how and when to say it.

The mountain of anti-union propaganda to which workers are exposed during the typical consultant's campaign bears witness to this. For a union, any opportunity to expose the fact that an employer has engaged the services of an anti-union law firm should be seized.

Jackson Lewis: They (Literally) Wrote the Book On Union-Busting

Jackson, Lewis, Schnitzler & Krupman, founded in 1958 and headquartered on Park Avenue in New York, is a national "labor and employment law firm" which represents management exclusively. With 20 offices in 11 states, more than 300 lawyers and annual revenues of nearly \$40 million, they are formidable indeed.

One of the first outfits to refine the techniques of "coaching" management on preventing unionization, Jackson Lewis is also one of the few bold enough to write a book on the subject. But don't look for "Winning NLRB Elections: Avoiding Unionization Through Preventative Employee Relations Programs" on the shelves at Barnes & Noble. Jackson Lewis won't even sell the book, now in its fourth edition, to individuals, let alone to unions.

The 253-page volume, billed on its back cover as "the best and most comprehensive publications on how to establish and maintain a union-free workplace," actually doesn't reveal more than the broad outlines of what a capable consultant's "bag of tricks" contains. Still, it illustrates much of the basic posture union busters recommend when confronting unions.

# Beware of Managements UNION BUSTING Tactics

## Union-Busters They Search for Soft Spots



Just as any good union organizer needs to size up a company early on, so too does the cagy consultant search for evidence of your weaknesses and vulnerabilities. Such information comes from government-required filings such as LM2 forms and other public documents.

In addition to the names and titles of union officers, they disclose the locations of union offices, membership size and details of a union's structure and finances.

You can count on the consultant to publicize everything he can find about the union's dues rates and initiation fees. He'll also do his best to distort the reality that dues are necessary to provide collective bargaining and contract administration services, arbitration hearings, education, job training and strike assistance.

In their zeal to portray unions as "outside third parties," consultants will direct payroll departments to deduct the maximum dues amount from employees' checks during an organizing campaign, and then reissue the deducted amount in a separate check. "This is what you can expect every month if the union gets in," they'll proclaim.

This type of paycheck ploy is often used just before a vote on representation. Long before that, your union should have already conducted frank and thorough discussions of dues and especially of how contract benefits won by your union will more than compensate for the amount deducted. Some prospective members may not even realize that dues aren't collected until after a contract is negotiated and ratified by the membership!

# **Beware of Managements UNION BUSTING Tactics**

## **Spotlight on Union Busters: Four Weeks and Counting to Election Day**

For both unions and management, the last four weeks of an election campaign are critical. Each side must use its most effective arguments and techniques of persuasion to gather peak support by election day.

While no two organizing or election situations are exactly alike, anti-union consultants always have a basic game plan for an upcoming representational vote. When you learn that an employer has hired lawyers and other professionals who specialize in keeping workplaces "union-free," you can anticipate certain kinds of behavior and plan your own initiatives and responses accordingly.

Let's suppose an election is just four weeks away. At this stage, the union is concentrating on large group meetings, home visits and literature aimed at exposing the employer's vulnerabilities. The standard, "boilerplate" strategy of the union busters is designed to force you onto the defensive. The trick is not to fall into his trap, but to stay on the offensive and maneuver the employer into reacting to what you're doing and saying.

### **An Election is Set**

The National Labor Relations Board regional director has issued a decision and directed an election (or both parties have entered into a stipulated election agreement). When the Labor Board has determined which employees can and cannot vote and makes known such details as voting hours and the location of polling places, a race often ensues between company and union to see who will be the first to notify employees.

The employer's consultant team will begin intensive training meetings for front-line supervisors. Several times a week until election day, they'll gather to discuss and refine the not-so-subtle arts of intimidation, persuasion by instilling fear and divide-and-conquer techniques.

# Beware of Managements UNION-BUSTING Tactics

## Spotlight on Union Busters: Four Weeks and Counting to Election Day

UNITED STATES OF AMERICA ★ NATIONAL LABOR RELATIONS BOARD

### NOTICE OF ELECTION

Case 19-RC-15416

**GENERAL**

**PURPOSE OF THIS ELECTION** - This election is to determine the representative, if any, desired by the eligible Employees for purposes of collective bargaining with their Employer. (See NOTICE UNIT in this Notice of Election for description of eligible employees.) A majority of the valid ballots cast will determine the results of the election.

**SECRET BALLOT** - The election will be by SECRET ballot under the supervision of the Regional Director of the National Labor Relations Board. Voters will be allowed to vote without interference, restraint, or coercion. Electioneering will not be permitted at or near the polling place. Violations of these rules should be reported immediately to the Regional Director or the agent in charge of the election. Your attention is called to Section 12 of the National Labor Relations Act.

**ANY PERSON WHO SHALL WILLFULLY RESIST, PREVENT, IMPEDE, OR INTERFERE WITH ANY MEMBER OF THE BOARD OR ANY OF ITS AGENTS OR AGENCIES IN THE PERFORMANCE OF DUTIES PURSUANT TO THIS ACT SHALL BE FURNISHED BY A FINE OF NOT MORE THAN \$1,000 OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BOTH.**

Upon arrival at the voting place, voters should proceed to the Board agent and identify themselves by stating their name. The Board agent will hand a ballot to each eligible voter. Voters will enter the voting booth and mark their ballot in secret. **DO NOT SIGN YOUR BALLOT.** Fold the ballot before leaving the voting booth, then personally deposit it in a ballot box under the supervision of the Board agent and leave the polling area.

A sample of the official ballot is shown at the center of this Notice.

**ELIGIBILITY RULES** - Employees eligible to vote are those described under VOTING UNIT in this Notice of Election, including employees who did not work during the designated payroll period because they were ill or on vacation or temporarily laid off, and also including employees in the military service of the United States who appear in person at the polls. Employees who have quit or been discharged for cause since the designated payroll period and who have not been rehired or reinstated prior to the date of this election are not eligible to vote.

**SPECIAL ASSISTANCE** - Any employee or other participant in this election who has a handicap, and who in order to participate in this election needs special assistance, such as a sign language interpreter, should notify the Regional Director as soon as possible and request the necessary assistance.

**CHALLENGE OF VOTERS** - If your eligibility to vote is challenged, you will be allowed to vote in a challenged ballot. Although you may believe you are eligible to vote, the polling area is not the place to resolve the issue. Give the Board agent your name and any other information you are asked to provide. After you receive a ballot, proceed to the voting booth, mark your ballot and fold it so as to keep the mark secret. **DO NOT SIGN YOUR BALLOT.** Return to the Board agent who will ask you to place your ballot in a challenged envelope, seal the envelope, place it in the ballot box, and leave the polling area. Your eligibility will be reviewed later.

**AUTHORIZED OBSERVERS** - Each of the interested parties may designate an equal number of observers, this number to be determined by the Regional Director or agent in charge of the election. These observers (a) act as checkers at the voting place and at the counting of ballots, (b) assist in the identification of voters, (c) challenge voters and ballots, and (d) otherwise assist the Regional Director or agent.

**INFORMATION CONCERNING ELECTION** - The Act provides that only one valid representation election may be held in a 12-month period. Any employee who desires to obtain any further information concerning the terms and conditions under which this election is to be held, or who desires to raise any question concerning the holding of an election, the voting unit, or eligibility rules, may do so by communicating with the Regional Director or agent in charge of the election.

**WARNING: THIS IS THE ONLY OFFICIAL NOTICE OF THIS ELECTION AND MUST NOT BE DEFACED BY ANYONE. ANY MARKINGS THAT YOU MAY SEE ON ANY SAMPLE BALLOT OR ANYWHERE ON THIS NOTICE HAVE BEEN MADE BY SOMEONE OTHER THAN THE NATIONAL LABOR RELATIONS BOARD, AND HAVE NOT BEEN PUT THERE BY THE NATIONAL LABOR RELATIONS BOARD. THE NATIONAL LABOR RELATIONS BOARD IS AN AGENCY OF THE UNITED STATES GOVERNMENT, AND DOES NOT ENDORSE ANY CHOICE IN THE ELECTION.**

HYTEK FINISHES CO.

Those eligible to vote are all full-time and regular part-time production and maintenance employees employed by the Employer in its Kent, Washington facility who were employed during the last payroll period ending immediately prior to the approval of the Stipulated Election Agreement by the Regional Director (July 11, 2011), excluding all other employees, office clerical employees, professional employees, temporary summer employees, and guards and supervisors as defined by the Act.

DATE: Thursday, August 11, 2011

TIME: 8:30 a.m. to 7:00 a.m.  
AND  
1:00 p.m. to 3:00 p.m.

PLACE: Employer's premises located at 8127 S 216<sup>th</sup> Street, Kent, Washington

BALLOTS WILL BE COMPLETED AND COUNTED AT THE CONCLUSION OF THE 1:00 P.M. VOTING PERIOD AT 3:00 P.M.

UNITED STATES OF AMERICA  
National Labor Relations Board

OFFICIAL SECRET BALLOT

For an employee of  
HYTEK FINISHES CO.

Do you wish to be represented for purposes of collective bargaining by the  
INTERNATIONAL ASSOCIATION OF MACHINISTS  
and AEROSPACE WORKERS DISTRICT LODGE 751

MAKE AN "X" IN THE SQUARE OF YOUR CHOICE

YES  NO

DO NOT SIGN THIS BALLOT. Fill and drop in ballot box. If you sign this ballot return it to the Board Agent for a new one.  
The National Labor Relations Board does not endorse any candidate, political party, or union in any election held under this Act.

NATIONAL LABOR RELATIONS BOARD  
an agency of the  
UNITED STATES GOVERNMENT

The National Labor Relations Board is an independent Federal Agency created in 1935 to enforce the National Labor Relations Act. It conducts open-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to an agent with the Board's Request Guide. For help and other information from the Board's website, contact us.

FORM NLRB-107 (01-05)

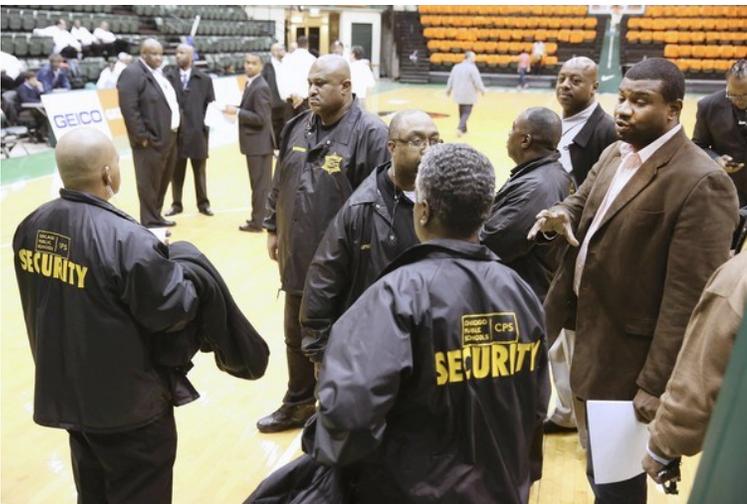
It's important to note that the hearts and minds of foremen and front-line supervisors are often up for grabs in ways that union organizers don't always recognize. By not taking seriously the existence of close personal ties between workers and these individuals, or by being unaware of them, union organizers may be too quick to concede this ground to their opponents.

Professional union busters, aware of such relationships and how they have been affected by them in the past, are quick to search them out. The union, through its in-plant committees, should vie for the support of all - including even those who aren't eligible to vote, but can still influence the outcome of the election.

We're not suggesting that union organizers invite middle management people to group meetings or meet openly with supervisors. But the friendship and trust that has developed over time between some workers and mid-level management can be encouraged in the hope that it may spawn a useful grapevine and an early warning mechanism to give the union an advance look at what to expect.

# Beware of Managements UNION BUSTING Tactics

## When the Supervisors Emerge The First Line of Defense



After all the intense training by the employer's consulting squad, the supervisors will emerge, ready to launch their carefully calibrated propaganda barrage. The initial presentation often will set the tone for the whole campaign.

"We (the good employer) want you to consider all the facts before making a decision that could affect the rest of your lives," they'll say. "Be sure you understand the difference between reality and wishful thinking."

Just as any good union organizer needs to act early to "inoculate" those they seek to organize, so does the anti-union consultant attempt to poison workers' perception of the union. "They're calling your company liars," they'll say - and while they may indeed be liars, you must be careful to avoid saying so unless you can support the charge with solid facts.

Organizers can make a great deal of headway by sharing with workers the contract terms and provisions that have been won for others in similar workplaces or in the same industry. As long as you make it clear that someone else's contract cannot be construed as a promise or guarantee of what will be obtained for them, you'll be well positioned to counter the veiled threats union busters customarily use: for example, "Every wage provision and benefit term currently provided by your employer is subject to change and could be reduced as a result of negotiations."

# Beware of Managements UNION BUSTING Tactics

## When the Supervisors Emerge The First Line of Defense



### Speaking of Threats, the Employer will Now Raise the Specter of STRIKES

Generally, strikes are rare: according to the News Media Guild, 98% of union contracts in the United States are settled each year without a strike.

Speaking of threats, the employer will now raise the specter of strikes, implying that there is no alternative. He'll say something like: "Even though we think of all of you as family, if a strike takes place, we won't rule out hiring replacements."

#### **Two things you must remember about strikes - There are Two Types of Strikes**

"economic" strikes and "unfair labor practice" strikes. United States labor law draws a distinction, in the case of private sector employers covered by the National Labor Relations Act, between "economic" and "unfair labor practice" strikes. An employer may not fire, but may permanently replace, workers who engage in a strike over economic issues.

On the other hand, employers who commit unfair labor practices (ULPs) may not replace employees who strike over ULPs, and must fire any strikebreakers they have hired as replacements in order to reinstate the striking workers. EMPLOYERS NEVER TELL YOU ABOUT ECONOMIC STRIKES.

The other thing you should know about strikes is that no union can force you out on strike just like a union can't force you to jump off a building!

# Beware of Managements UNION BUSTING Tactics

## Spotlight on Union Busters: Three Weeks Until Election Day

With a representation vote only three weeks away, you can be certain that the employer's union-busting consultants have identified key members of your in-house organizing committee.

Backers of the union may already have been fired or threatened with discharge. At the very least, you can assume that the movements of key leaders in and around the workplace will be severely restricted and they'll be under constant surveillance.

With few exceptions, employers will violate the National Labor Relations Act repeatedly during an organizing campaign. How can the union respond? Given the weakness of the Labor Board as an instrument to secure justice, many employers are completely unfazed when a union responds to discriminatory terminations by filing unfair labor practice (ULP) charges. If you were a fly on the wall during a private meeting of the employer and his consultant, you'd hear them saying things like this:

"What's the worst scenario we're looking at? Even if we're found guilty of committing ULPs, victims of discrimination are only entitled to back pay and reinstatement - and that's assuming that in the interim (which could mean many months or years), they've made a diligent search for work and haven't turned down any job offers."

Even a well-intentioned bureaucracy usually moves at a snail's pace, and the National Labor Relations Board (which administers the Labor Act and attempts to settle disputes over its interpretation) is no exception. And as everyone knows, "Justice delayed is justice denied."

If there are enough strong supporters of the union and you're sure they won't back down in the face of adversity, a union can consider calling an unfair labor practice strike. However, this can be very risky particularly during an economic slump or a period of high unemployment.

# Beware of Managements UNION BUSTING Tactics

Spotlight on Union Busters: Three Weeks Until Election Day



## Self-interest vs. Solidarity

A multifaceted approach is the key to placing pressure on your organizing targets. It is a great advantage to be able to point to examples of a company's vulnerabilities with respect to relationships with other businesses, insurers, banks, creditors and the general public. The employer may be subject to criticism from environmental watchdogs, civil rights advocates, consumer groups or others with broad community interests.

Union busters encourage a "go-it-alone, every man for himself" mentality.

They'll argue that individual self-interest should take precedence over all other considerations. An activist-oriented campaign, in which your future membership is directly involved, is the best possible approach.

# UNITED YOU STAND DIVIDED YOU FALL!

# Beware of Managements UNION BUSTING Tactics

## Feasting on Fear of the Unknown

### The Boogie Man Strategy



Instilling in employees' minds what companies like to call "the downside of unionism" is a priority item on management's agenda as Election Day nears. In meetings or in writing, they'll exploit workers' fear of the unknown with this type of message:

"We want to discuss with you, our trusted employees, what a company like ours needs to survive and remain competitive in today's economy. In a word, that means flexibility. We're proud of our history and our ability to provide stable jobs, good pay and benefits in the years since we chose to set up our business here. But the determination on whether to stay here has been - and will continue to be - based on sound economic reasoning."

The union will invariably be labeled a "third party" or an "outside party" bent on disrupting friendly, established relationships: "This is not to say that should you choose an outside party to represent you, we would necessarily pick up and move to a new location. After all, to say so at this juncture would be unethical." (Incidentally, it would also be illegal.)

Once again skirting the edges of illegality, your foes will say: "By continuing to work together, without any undue influence from those who would weigh us down with restrictive production requirements and bothersome union rules, we will succeed in meeting our goals." Through such thinly-veiled threats, seeds are planted in every worker's mind: "Will I lose my job next month if the union is voted in?"

# Beware of Managements UNION BUSTING Tactics

## FEAR IS THE UNION-BUSTERS BEST FRIEND

Exploiting such fears is at the heart of all "union avoidance" strategies. Less easy to spot are the effects of conflict generated during the organizing process - conflict as distinguished from fear, because the adversarial relationship itself has an impact on undecided workers.



Anti-union consultants advise managements to take actions that polarize the workplace, and then transfer blame to "outside agitators" and "inside troublemakers." A divide-and-conquer strategy, pitting worker against worker based on race, gender, age, seniority, skill levels or a combination of all these factors, can stop organizers in their tracks.

From the employer's point of view, the morale of the workforce takes a back seat to the primary objective of defeating the union.

With employees still divided on the need to organize, management can haul out some of its most trusted brown-nosers in the workforce and beam contentedly (from a legally safe distance) as they form a "Vote No Committee." A petition will be circulated saying, "I would like to be counted among the group of employees who want to be recognized as against unionization."

A simple checkmark near one's signature grants the committee permission to print each signer's name on flyers that will soon appear. When they do, some workers who initially chose not to sign will start worrying that they could now be viewed as pro-union. And of course, the non-signers will soon get another chance to sign.

Alert unionists will see this kind of challenge coming and will make sure that pro-union sentiment becomes just as visible and tangible. Lots of workers wearing "Union Yes" buttons, caps, T-shirts and other paraphernalia will demonstrate the growing popularity of the union and the isolation of management's brown-nosing allies.

# Beware of Managements UNION BUSTING Tactics

## Spotlight on Union Busters: Two Weeks Until Election Day



The vote on union representation at our hypothetical workplace is now only two weeks away. Will the workers choose the union, or will they succumb to the false hopes of a "better," union-free future that the employer and his fear-mongering consultants have instilled?

If the union has managed to retain majority support at this late stage, management knows it's time to drop some big bombshells. Some union-busting consultants have become specialists in particular industries or have positioned themselves to challenge the same labor organizations in many locations. The bombshells they lob at the last minute may be fashioned from records they've carefully compiled to identify disgruntled members of an international union.

It doesn't matter if (as is often the case) the "horror stories" happened years ago, involved only a handful of people or simply bear no resemblance to the realities of your situation. Since the consultant routinely portrays union advocates as "outsiders," he has every reason to reinforce this bad-guy image with wildly exaggerated tales of what "this very same union" did a long time ago, thousands of miles away.

As we've noted before, at various stages in an organizing campaign the most activist unions rely on their own rank-and-file members to rally support from those they seek to organize. The stale "horror stories" and the "outsider" stigmas lose their sting when they are countered with sincere, believable testimony of real people who speak from their own experience about union pride and achievements.

# Beware of Managements UNION BUSTING Tactics

## Spotlight on Union Busters: Two Weeks Until Election Day



### Paychecks and promises

Often, in the campaign's final stages, it comes down to this: the payday surprise. As the employer hands out the pay envelopes, suddenly someone shouts: "Hey, what's going on? I've been shortchanged!"

The boss then hands out a second set of envelopes, labeled on the outside: "Enclosed is \$20 of your hard-earned money, the minimum amount the union takes from its members' paychecks every month." Union-busting consultants call this all-too-common ploy "the split paycheck stuffer." The National Labor Relations Board deems it an acceptable tactic as long as it's used no less than 24 hours before the voting.

Anti-union leaflets based on the notion that the union had better "put its promises in writing" tend to multiply at this stage. Here is some typical wording as recommended by a prominent consultant:

"Ask the union salesperson for a signed, notarized, legally enforceable guarantee about any of the following:

"1. I guarantee you will get a pay raise of (blank space for amount promised) in your first contract.

"2. I guarantee you will not lose any of your current wages or benefits as long as you are represented by my union.

"3. I guarantee if you are called out on an economic strike, your job will not be filled by a permanent replacement.

**"The union won't sign this because it can't make such guarantees. Talk is cheap - VOTE NO!"**

# Beware of Managements UNION BUSTING Tactics

## Spotlight on Union Busters: Two Weeks Until Election Day



Another type of "supervisory handout" that is often held back until the last weeks is what the notorious consultants, Jackson, Lewis, Schnitzler and Krupman (in their \$75-a-copy book, *Winning NLRB Elections*) call "Your Personal Strike Cost Calculator." Over a chart with the heading, "How Long Will It Take You to Break Even after a Four-Week Strike?", columns of figures are stacked up like poker chips portraying ever-growing amounts of "lost wages."

Then there's the "contest" type of flyer, which asks questions like, "What's the largest fine ever levied against a member of the union?" and "What was the length of the union's longest strike?" Ostensibly to protect the "privacy" of contest entrants, entries are numbered and the employee retains a receipt. The correct answers and the winning number are announced right before the election.

Small group meetings and supervisory handouts may also be devoted to "the truth about collective bargaining," or at least the consultant's version of the truth. Management's basic point is that nothing in the law compels an employer to agree to any union "demands." They'll quote with approval the segment of the Labor Act that says an employer's only obligation is "to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment...but such obligation does not compel either party to agree to a proposal or require the making of a concession."

If the union has done its job of preparing those whom it seeks to organize to do battle with the employer, all the flyers will fall flat and workers will react to the rhetoric at the "captive audience" meetings with skepticism. A viable union campaign isn't built on false promises; it's developed through visible strategies that show how working people can bring the utmost pressure to bear on a company and its corporate allies.

# Beware of Managements UNION BUSTING Tactics

## Spotlight on Union Busters: Both Sides Turn Up the Heat As Election Day Approaches



After all is said and done in a contentious union election campaign, neither side can afford to sit back and relax on the eve of the voting, even when one side clearly appears to hold the edge.

At times like this, expect the unexpected. Figuratively speaking, rabbits will be pulled out of hats. Seasoned union busters will pull out all the stops if they think the union might prevail. And if ever there was a time when anti-union adherents would be likeliest to provoke violence this is it.

Management and their consultants may feel emboldened to encourage a visible demonstration of what they have alleged throughout the campaign - namely, that unions breed dissension in the workplace.

The potential for such management provocation is not always easy to recognize. The attentive union organizer will look for signs of it, such as reports of verbal altercations, sexual harassment, company bullies being transferred into departments where there is a high level of support for the union, and cases of intimidation outside the workplace.

Regardless of how it originates, violence always poses a dilemma. Publicly identifying where the hostility came from may help, but won't resolve underlying fears that the workplace may become a very hostile place if the union wins. At a minimum, the union should promote non-violence and strongly encourage those who might be prone to violence not to be provoked. When conflicts arise organizers should encourage all pro-union workers to "turn the other cheek."

# Beware of Managements UNION BUSTING Tactics

## Spotlight on Union Busters: The Full-Court Press One Week Until Election Day



Management knows who the Union Supporters so they will concentrate on the undecided voters staging intense one-on-one sessions pairing supervisors with undecided members of the bargaining unit.

With so little campaign time remaining, activist unions at this stage will have their in-plant committees functioning at full tilt. They will have identified strong supporters, the uncommitted, and co-workers who don't favor a union at all. Since management's consultants have directed the employer to do the same, the endgame for both sides is to sway the group still on the fence.

For the employer, that means intense one-on-one sessions pairing supervisors with undecided members of the bargaining unit. For you and the union, it means targeted home visits in which organizing committee volunteers reach out to those same potential voters.

During the last week there will also be one or more handouts or mailings by the company as well as the union. Each will be timed to reach voters as close to election day as possible. Naturally, management will attempt to push its "trust only us" line of malarkey, while the union will emphasize a "look forward to a better future" theme, complete with outlines of the kind of proposals the union and its member-based negotiating committee plans to present to the company.

The employer may proclaim or imply that he has a "new attitude" and has suddenly realized the need to improve communications with workers. A savvy union response to such a claim would be, "That's why we're here, to keep 'em honest and ensure that your voices are heard."

# Beware of Managements UNION BUSTING Tactics

## The 'White Knight' Approach



In a large-group setting, a top management official who has not previously been seen during the campaign may appear. He announces: "Because of the sensitive legal circumstances at present, we are prohibited from making any promises just now. However, be assured that your concerns have not gone unnoticed."

If you support us at this most difficult time, major changes will take place in the future."

Whether or not this kind of appeal materializes you should assure those you have been organizing that shortly before election day, there may be veiled promises and vague assurances that are no guarantee at all and that the employer would never dare to put in writing. If management were truly sincere, why fight the union in the first place? Guarantees for workers are what contracts are all about.

The union also needs to pull out all the stops. The last week of the campaign is probably the best time to unveil labor and community support for the organizing drive. Schedule that rally. March up Main Street. Call out every available unionist, religious leader and political leader who would speak out for justice.

At this juncture, even if your chances of winning are slight management may minimize retaliatory moves against union supporters simply because of the fear that a larger social movement has grown out of the attempt to organize their employees. And even a minimal public turnout before the vote can strongly encourage workers who need to know they are not alone in the struggle.

Prior to the vote organizers should know who is scheduled to work and when even though you have done everything you can to publicize the date and times of the voting. You can't leave anything to chance. If you know any union supporters who have the day off make sure they show up to vote, even if it means offering to drive them to the polls yourself. I've seen more than one election in which my own union observers told me that they forgot to vote.

# Beware of Managements UNION BUSTING Tactics

## Counting the Ballots



In a large-group setting, a top management official who has not previously been seen during the campaign may appear. He announces: "Because of the sensitive legal circumstances at present, we are prohibited from making any promises just now. However, be assured that your concerns have not gone unnoticed.

If we do our homework and regularly interview members of the organizing committee, we'll know how each and every employee stands long before they enter the booth.

**“In more than 35 years of organizing I have yet to get the count right on my personal check-off sheet. What I have succeeded in doing, however, is determining the outcome before a single ballot was cast.”.**

Steve Maritas Former Organizing Director SPFPA International Union

“ If we don't vote, we risk everything. There is no such thing as a silent majority. If you see certain people turning out to vote, or at least hear them discussing the issues, you can probably predict how they'll vote”.

# Beware of Managements UNION BUSTING Tactics

## Responding to a Union Organizing Campaign: A Look into a Union Busters Play Book

(General Guidelines)

### 1. Written or Oral Communication to Employees

There is no rule of law preventing the Company from communicating to its employees its views concerning a labor union.. However, you must be careful as to what you say and the circumstances under which you say it. The following are the most important things to remember.

a. You must not directly or indirectly promise any benefits or reward employees if they will refuse to sign a union card, stay out of the union, or vote against the union. For example, you may not promise employees a wage increase if they will decline to sign up with the union or will vote against the union.

Such an inducement is unlawful. It is equally unlawful to offer any inducement to employees in order to encourage them to withdraw or repudiate union authorization cards.

b. You must not threaten employees with harm or reprisals (economic or otherwise) if they decide to sign a union card, join, or vote for the union. As an example, you may not threaten to close down your Company if the union wins an election or gets into your Company.

c. You should not ask any employee whether or not he or she favors the union, has signed a union card, or has gone to a union meeting. The NLRB thinks these are improper questions. In fact, you should not question an employee at all about his or her own or other employee's attitudes or activities relating to the union.

d. You may not solicit grievances about working conditions while expressly or impliedly promising corrections. It is not unlawful to ask employees about their grievances or suggestions for improving conditions.

It is unlawful to promise an improvement. You should stay within the bounds of your established grievance procedure and inform employees that you cannot make promises concerning the grievances raised.

# **Beware of Managements UNION BUSTING Tactics**

## **Responding to a Union Organizing Campaign: A Look into a Union Busters Play Book**

### 2. Communications to Employees—Unfair Labor Practice Proceedings as Distinguished from Election Proceeding.

In connection with what we have said above, you have to keep in mind a distinction between unfair labor practice proceedings and representation proceedings which might be held by the NLRB. A representation proceeding has as its purpose determining whether or not a group of employees wishes to have union representation. A representation proceeding usually results in the NLRB holding an election among the employees in the bargaining unit. An unfair labor practice proceeding involves a claim that a party (typically the employer) engaged in unlawful discrimination, restraint, interference or coercion of employees in violation of the National Labor Relations Act.

If you violate the rules I have mentioned above, you may get into trouble in both unfair labor practice proceedings and a representation case. The Board considers violation of the above rules to be an unfair labor practice and the Board might even order your Company to bargain with the union without any election if the misconduct is so egregious and pervasive as to preclude the holding of a fair election.

However, there is a further consequence. If an election has been held and the employees have voted against the union, the election results will be thrown out if you have violated the above rules and again a bargaining order, rather than a new election, could result if there are enough serious violations to preclude a fair election.

In connection with election cases, there is another problem on which it is impossible to give you any precise advice or formula. The NLRB takes the position that elections should be held under “laboratory conditions” so that a fair result is obtained. You may not violate any of the above rules and you may have committed no unfair labor practice, but if the NLRB decided that you have said something or done something which destroys the laboratory conditions under which they feel the election should be held, they will throw out the results of the election. Even though you violate no law, the election results can be thrown out if you do something that they think is inequitable or unfair or unduly affect the employees.

For these reasons, it is important to be fair and as careful as possible in any communications made to employees when election campaign is on.

# Beware of Managements UNION BUSTING Tactics

## Responding to a Union Organizing Campaign: A Look into a Union Busters Play Book



3. Supervisors : If an unfair labor practice is committed in a union organizational campaign or if election results are thrown out, it frequently results from an act of supervisors rather than from top management. The company is responsible for anything a supervisor says or does even though his or her action may be unauthorized and unknown to you. Therefore, in any campaign it is important to educate your supervisors on what they may or may not say or do.

To be completely safe, it is best to keep lower level supervisors away from union matters as much as possible. The fewer people that have anything to say or do concerning the union, the easier it is to avoid violation of the law. However, it may be necessary to involve lower level supervisors in your election campaign in order to win. If so, insist that they act carefully.

4. Employees Engaged in Union Activity I doubt that I need to say this, but I will mention it in passing just to make sure it is not forgotten. It is the right of each of your employees to sign or not sign a union card, favor or not favor a union and vote for or against the union as he or she sees fit. Therefore, you may not discharge or otherwise discriminate against any employee because he or she favors or votes for or signs a union card. I am sure you would not consciously violate this rule, but there is one practical consequence which you must remember. As soon as you become aware of an organizational campaign, you must be very careful concerning all discharges or other discipline and that the cause is completely unrelated to any union consideration. It is very embarrassing to an employer to discharge an employee for a borderline reason and then find out that he or she was the leading union adherent in the Company. The NLRB is very suspicious in such circumstances that the discharge was, in fact, based upon union considerations. Such unlawful discharges are examples of some of the conduct that might result in a bargaining order.

# **Beware of Managements UNION BUSTING Tactics**

## **Responding to a Union Organizing Campaign: A Look into a Union Busters Play Book**

### **5. Non-Employee Union Organizers on Company Premises**

You have no duty under the current law to allow union organizers to come on your premises in an organizational campaign if they are not employees. However, there is an exception to this rule. You may not discriminate against union organizers as against other types of solicitors. If you allow other non-employee solicitors to come on your premises to contact employees (such as representatives of charitable organizations or salesmen), you cannot discriminate and keep union organizers out. You must have the same rule for all.

6. Union Activity by Employees You may not have a blanket rule for all union activity on your premises. Such a rule is per se unlawful. However, working time is for work. You have an absolute right to insist that employees do not engage in union activity during their working time, but again, you must not discriminate. You cannot permit those who are against the union to campaign or propagandize during working time and block those who favor the union from doing so. You must have the same rule for all. The rule should be that during “working time” employees should not engage in any union activity, either for or against employees must be informed that “working time” does not include meals and break periods.

However, during their free time (lunch periods, coffee breaks, and so forth) you may not prevent employees from engaging in union activity on your premises. They should not bother employees who are working, but you cannot stop them from talking about the union on their own free time. Sometimes union literature being passed out on your premises by employees creates a litter problem. If this happens, you are entitled to make a reasonable rule. However, you should not assume in advance that a litter problem will occur and establish a blanket rule forbidding the passing out of union literature on your premises by employees. You can lawfully prohibit employee distribution of union literature in work areas at any time provided the rule covers and is uniformly applied against nonunion and antiunion literature, as well as union literature. But remember, employees can be prohibited from soliciting only during working time. According to the NLRB, handing out union authorization cards is a form of “soliciting” rather than “distribution.”

# **Beware of Managements UNION BUSTING Tactics**

## **Responding to a Union Organizing Campaign: A Look into a Union Busters Play Book**

### **7. Changes in Wages or Fringe Benefits During a Union Organizational Campaign**

After you have conscious knowledge that there is an organizational campaign going on, you should not make changes in wages or fringe benefits for the purpose of influencing the election or the outcome of the organizational campaign.

What you may or may not do will depend on the particular circumstances. For example, you should not give any new unprecedented general wage increase until the election has been held and the results decided. On the other hand, if the union were just trying to sign up your employees and the organizational drive continued over a long time, you cannot be expected to hold off changes in wages and fringe benefits for an unreasonable period of time. Generally speaking, the NLRB will look at the entire factual situation in each case to see whether the changes in wages or fringe benefits have been made for the purpose of influencing the results of the election of the organizational campaign. As another example, if you have a regular annual program of giving wage increases or merit increases at a certain time or if a general increase has been previously announced to be given at a certain date, you can properly continue to place the increase into effect even though the union is trying to organize your employees. What you can or cannot do in this situation will depend upon the facts at the particular time.

### **8. Card Checks**

One of the ways in which a union gets representation rights is through an NLRB election. However, it is not the only way. Under the law, if a union has signed up a majority of your employees and has the cards to prove it, you may not refuse to recognize the union if you have not good faith doubt as to the unions' representation status and if you have committed serious unfair labor practices. More and more unions are trying to get representation rights through this back door method. Instead of seeking an election, they sign up the employees and present the cards to the employer, and if he refuses to recognize the union, they will file an unfair labor practice charge against the employer. The Company does not have to file a petition for election when refusing to recognize a union under these circumstances, but the Company must avoid the unlawful threats, promises, interrogations, discharges, etc., discussed above and must further avoid acknowledging the accuracy of the union claim either by personal verification or verification by an impartial third party.

# **Beware of Managements UNION BUSTING Tactics**

## **Responding to a Union Organizing Campaign:**

### **A Look into a Union Busters Play Book**

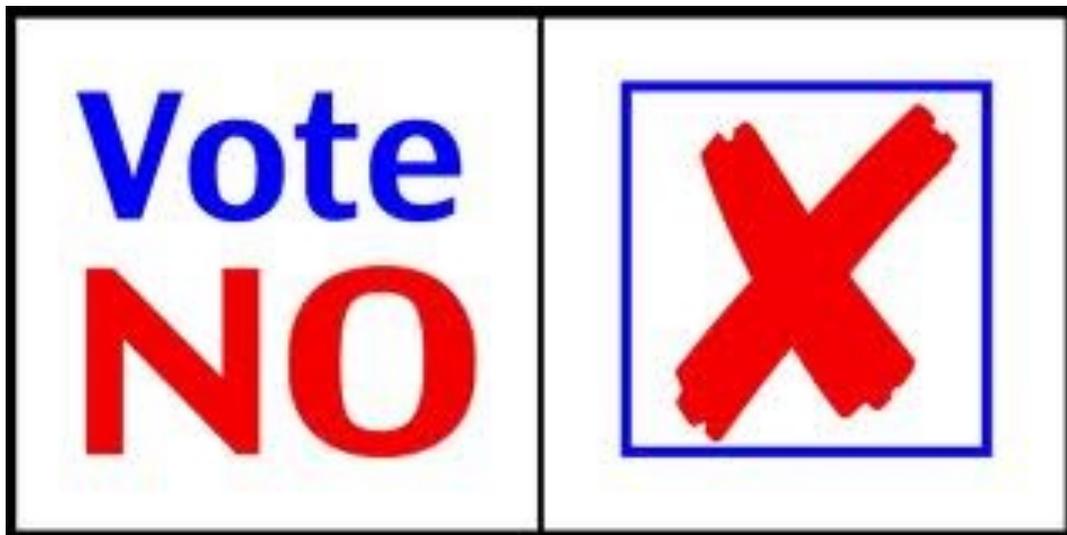
The most important thing to remember is that if any union requests recognition based on cards it claims to have, do not look at the cards, and immediately state that you doubt in good faith that the union represents an un-coerced majority of your employees in an appropriate unit, that you further doubt the validity of cards as an accurate expression of employee's desires, and refer the union to me.

### **Specific Do's and Don'ts**

It is extremely important in any pre-election period that you and your supervisors and other management personnel know what you can and cannot say on the issues. Of particular importance at the inception of the campaign though, are the "don'ts" which should help keep your supervisors from committing unfair labor practices and objectionable conduct which could jeopardize the outcome of an NLRB election.

### **An Employer Can**

Tell your employees that the Company prefers to remain nonunion and that you would like them to vote "NO."



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#### **Specific Do's and Don'ts—Employer Can**

Tell your workers that they are free to support the union or not, as they see fit, but you hope they vote against it.

Emphasize that you are not asking about their union views or activities, but that you need and want their support.

Inform them that if they become members of the union, they will have to pay monthly dues to the union, as well as possible fees, fines and assessments.

Answer employees' questions about Company policies and discuss the campaign issues, providing you don't threaten reprisals, promise benefits, interrogate them about their union views, or misrepresent

NLRB processes.

Assure them that union or no union, management is going to continue to try to make the Company a good place to work.

Tell the workers that there is no reason to think that past progress in wages and working conditions will stop if there is no union. To keep competitive, the Company must continue moving ahead, union or no union.

Refer to the union's financial reports (which we can provide to you) and tell employees if they become union members, much of their dues will be going to pay the salaries and expenses accounts of union officials.

Point out provisions in the union's constitution and bylaws (which we can also furnish) which are disadvantageous to the employees, such as punishable union offenses, union trials and provisions for suspension, expulsion, fines and assessments by the union.

**Advise the employees that if they become union members, they will have to obey all the union rules found in the union constitution and bylaws.**

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#### **Specific Do's and Don'ts—Employer Can**

State that the Company prefers to continue to deal directly with its employees, without intervention by an outside union that has no real interest in the success of the business.

Tell the employees that if they select a paid agent to represent them (the union), the Company will probably have to hire lawyers or other experts to represent the Company. This will be an expense to both of you, and you would rather iron out problems with the employees directly while both of you keep your money.

Answer questions from antiunion employees about what they can do to oppose the union, by telling them of their legal right to actively campaign against the union, provided they observe the same rules imposed on the other employees. However, the Company is prohibited by law from giving them aid, advice or financial assistance.

Say that the Company will recognize the union and bargain in good faith if there is a valid NLRB Certification which requires you to do so, but that any improvements in wages and benefits are “negotiable” and not automatic, as the union might suggest.

Tell the employees you would bargain with the union in good faith and do everything humanly possible to avoid strikes; but if the union called an economic strike, the Company would have the legal right to hire permanent replacements for such strikers.

Point out the indirect costs of unionization that you want to avoid: executive time spent in bargaining sessions; working time of employees spent on union business; cost of hiring lawyers and other labor relations experts. Money spent for such costs obviously cannot get to the employees in higher wages.

Listen sympathetically to employee problems and grievances, but carefully refrain from making promises of new benefits during the union campaign.

Enforce lawful no-solicitation, distribution and access rules without discrimination between prounion, antiunion and nonunion activity.

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#### **Specific Do's and Don'ts—Employer Can**

Immediately report any union threats or intimidation of employees. Charges can then be filed with the NLRB if the coercion is substantiated.

Administer appropriate disciplinary action for any employee threatening or coercing other employees, whether for or against the union.

Say that employees who join unions have to obey the orders of union officials, within the scope of their authority, and this means the employees end up with two “bosses” instead of one.

Request union officials to leave the Company's property where you have a lawful nondiscriminatory no-solicitation, no-access, etc. rule which is also applied against non-employee solicitors who are not connected with a union. Escort them off the property.

Call the police to have them removed if necessary. However, this should be a last resort because you should avoid confrontations.

State that under most union contracts, employees are expected to take their grievances up through union stewards or agents and not to management directly. The union can usually veto the grievance somewhere along the line. Without a union, employees can take their problems as far up as they have the fortitude to go, and no union official can turn thumbs down on their right to go to management.

Remind employees that every person put between you and the person you are trying to talk to makes it more difficult to get your point across. Why not dispense with the middleman and talk directly with each other?

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## **Responding to a Union Organizing Campaign:**

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#### **Specific Do's and Don'ts—Employer Can**

Explain to employees all of the benefits they presently enjoy. Where these benefits compare favorably with the term of the union's contract, be sure to emphasize that fact.

Remind employees that the union can fine members who cross union picket lines, that the union can sue in court to collect the fines, and that judgments for union fines are enforceable through garnishment and attachment, just like any other court judgment.

Tell employees that signing a union authorization card does not commit them to vote for the union in an NLRB election.

Inform employees that during the 12 months following certification of an NLRB election which is won by a union, the employees cannot vote the union out in another NLRB election, and if a contract is signed during this period it acts as a bar to decertifying the union for up to three more years.

Tell employees about any bad experiences you personally have had with unions, but be factual and assure them you are not saying that such things should necessarily occur here.

Refute any untruths in the union's propaganda.

Emphasize that your employees are free to vote against, oppose, or join or support unions or not, entirely as they see fit. The Company will not favor or discriminate against employees whatever their views.

Tell the employees that you respect their right to do as they wish, but you personally prefer not to have a union at your Company, and you hope they will reject the union.

Tell employees that there will be no automatic pay increases, no automatic improvements in fringe benefits and no automatic union contract if the union wins an election. Everything will depend on what happens in collective bargaining negotiations.

Tell employees that the Company does not have to agree on a contract or on any certain pay or benefits just because some other company has agreed to them.

# Beware of Managements

# UNION BUSTING Tactics

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### Specific Do's and Don'ts—What Your Employer CANNOT DO

Fire, reprimand, assign to less desirable jobs or otherwise prejudice the employment status of a worker because of his or her union views or sympathies (or because he or she complains about working conditions.

1. Attend a union meeting, park across the street from the meeting place or engage in any undercover activity which would indicate that the employees are being kept under surveillance to determine who is and who is not participating in the union meeting;
2. Tell employees that the company will fire or punish them if they engage in union activity;
3. Lay off, discharge or discipline any employee for union activity;
4. Grant employees wage increases, special concessions or benefits in order to keep the union out;
5. Bar workers who are organizing from soliciting other employees' membership on or off the company property during non-working hours;
6. Ask employees how they intend to vote if a union election takes place;
7. Threaten employees with reprisal for participating in union activities. For example, threaten to close the business, curtail operations or reduce employees' benefits;
8. Promise benefits to employees if they reject the union;
9. Give financial support or other assistance to a union;
10. Announce that the company will not deal with the union;
11. Threaten to go out of business and reopen under another name in order to avoid dealing with a union;
12. Ask employees whether or not they belong to a union, or have signed up for union representation;
13. Make anti-union statements or act in a way that might show preference for a non-union employees;

# Beware of Managements UNION BUSTING Tactics

## Responding to a Union Organizing Campaign: A Look into a Union Busters Play Book

### Specific Do's and Don'ts—What Your Employer CANNOT DO

14. Make distinctions between union and non-union employees when assigning overtime or desirable work;
15. Purposely team up non-union employees and keep them apart from those supporting the union;
16. Transfer employees on the basis of union affiliations or activities;
17. Choose employees to be laid off in order to weaken the union's strength or discourage union membership;
18. Discriminate against union supporters when disciplining employees;
19. By nature of work assignments, create conditions intended to get rid of an employee because of union activity;
20. Fail to grant a scheduled benefit or wage increase because of union activity;
21. Deviate from a company policy for the purpose of getting rid of a union supporter;
22. Take action that adversely affects an employees job or pay rate because of union activity;
23. Threaten workers or coerce them in an attempt to influence their vote if an election is planned;
24. Threaten a union member through a third party;
25. Promise employees a reward or a future benefit if they decide "no union"
26. Tell employees overtime work (and premium pay) will be discontinued if the company is unionized;
27. Say unionization will do away with vacations or benefits and privileges presently in effect;
28. Promise employees promotions, raises or other benefits if they get out of the union or refrain from joining the union;
29. Promise employees promotions, raises or other benefits if they get out of the union or refrain from joining the union;
30. Start petition or flyer against the union or encourage or take part in its circulation if started by employees.