

The Long, Slow Death of Workplace Democracy at the *Chinese Daily News*

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The firm that is the focus of this article is not a “bad” employer in the traditional sense. It provides a service with which its clients are normally extremely satisfied. Indeed, it may well be, as it frequently claims, the nation’s leading company providing this particular service. Its hundreds of satisfied clients over the past two decades include such household names as General Electric, MCI, K-Mart, Honeywell, Coca-Cola, and several large hospital chains, including Catholic Healthcare West, the largest private hospital chain in California. According to all available information, moreover, the firm treats its employees extremely well: most are handsomely rewarded for their efforts, earning around \$180-250 per hour plus expenses in compensation. Rather, the problem with this firm is the service it provides – sophisticated and aggressive anti-union campaigns that are custom-designed to undermine employees’ right to choose a union. While probably unfamiliar to many scholars of labor-management relations, the firm is intimately familiar to union organizers throughout the country. For them, it ranks alongside New York lawyers Jackson-Lewis as leading the ranks of the most notorious union-busting firms in the nation. The firm has orchestrated approximately 800 anti-worker campaigns since its founding in 1981, charging millions of dollars (including state and federal tax dollars from employers that receive public money)¹ for its services,² and has been involved in dozens of organizing drives tarnished by allegations of unfair labor practices (ULPs). The name of the firm is the Burke Group.

- **The Burke Group and the Anti-Union Consulting Industry in the United States**

Modern-day anti-union consultants have operated since the 1940s. In the 1970s, however, the consultant industry expanded enormously in response to the intensification of employer

¹ In one infamous case involving numerous of unfair management practices, Catholic Healthcare West paid the Burke Group over \$2.6 million to fight SEIU organizing campaigns in Sacramento and Los Angeles in 1998, according to the hospital chain’s own financial records. That same year, Catholic Healthcare West received over \$40 million in state funds in the form of Medi-Cal reimbursements.

² Appendix A provides a list of recent Burke engagements where “reported costs” of the employer campaigns (i.e., the cost of direct consultant-employee contact) exceeded \$40,000.

opposition to unionization during that decade.³ By the 1990s, one scholar estimated, American employers were spending over \$200 million per year in direct payments to consultants, but that the true value of the anti-union industry rose to over \$1 billion per year when one included the cost of management and supervisor time off to fight unionization.⁴ Recent studies have demonstrated that anti-union consultants are now part of standard operating procedure, with three-quarters of employers engaging their services when confronted by an organizing drive and that unions win significantly fewer National Labor Relations Board (NLRB) elections when employers engage the services of a consultant.⁵ Over the past three decades, consultant activities have transformed the character of union representation campaigns, turning them into significantly more acrimonious affairs. Prior to the 1970s, tactics such as captive speeches, employee interrogations, one-on-one meetings between employees and supervisors, “vote no” committees, anti-union videos, threats of plant closures, and discriminatory discharges were used sparingly by employers facing organizing campaigns. In recent decades, in contrast, these tactics have become commonplace, in part because of their development and promotion by consultants.⁶

Today, the Burke Group, headquartered in Malibu, California, perhaps best personifies the modern face of anti-union consulting. With over 60 full-time consultants, it is probably the nation’s largest firm specializing in counter-organizing campaigns.⁷ The Burke Group advises employers throughout the country on how to maintain their “union-free advantage” and operates in most sectors of the economy. The firm’s consultants live in 23 different states, thus allowing it to dispatch consultants “quickly and efficiently to any trouble spot.”⁸ In recent years, the Burke Group has specialized in healthcare campaigns and campaigns involving multicultural and multilingual workforces, both areas of significant new organizing activity. The Burke Group can credibly claim significant expertise in healthcare labor relations. Its extensive consultant roster

³ Pressures in Today’s Workplace.

⁴ John Lawler, *Unionization and Deunionization* (University of South Carolina Press, 1990).

⁵ Kate Bronfenbrenner and Rob Hickey, “Changing to Organize: A National Assessment of Union Organizing Strategies.” Paper presented at the Institute for Labor and Employment Research Conference on Union Organizing, UCLA, May 17, 2002.

⁶ John Logan, “Consultants, Lawyers, and the Union Free Movement in the United States Since the 1970s,” *Industrial Relations Journal* 33:3 (August 2002).

⁷ Anti-union law firms such as Jackson-Lewis and Littler-Mendelson are larger in size, but these firms provide a range of legal services in addition to counter-organizing campaigns and rarely conduct direct persuader activity.

⁸ Labor Information Services (a.k.a., the Burke Group) web page at www.laborinformationservices.com/ (March 5, 2003).

includes 8 former healthcare industry executives, 5 registered nurses, and one former president of the California Nurses Association, Susan Harris, who led the nurses' union for two years in the early 1980s.⁹ In the 1970s and 1980s, anti-union consulting was an overwhelmingly white, Anglophone business, and few firms employed multilingual or minority consultants. Since the 1990s, however, many large consultant firms have diversified their workforce, as counter-organizing campaigns involving immigrant workers have come to constitute a significant portion of their workload.¹⁰ The Burke Group is just one of a number of consultant firms in Southern California that specialize in counter-organizing campaigns involving immigrant workers; others include Cruz & Associates, Labor Relations Consultants, Inc., and Hector Flores. But the Burke Group leads the field in consultant diversity, with consultants fluent in Spanish, Portuguese, French, Filipino, Creole and several dialects of Chinese. As a result, the firm assures clients that it can now "more effectively respond to the challenges of an increasingly diverse workforce."¹¹

The Burke Group has sought to internationalize its operations in recent years by promoting its services to companies in Canada and the United Kingdom, both of which have union recognition systems broadly similar to that of the United States. Unions in Ontario have reported greater consultant activity since the introduction of mandatory certification elections in 1995.¹² Prominent employers that have recruited the services of the Burke Group since the introduction of Britain's new union recognition law in June 2000 include General Electric, Honeywell, Eaton Corporation, and Amazon.co.uk. In response to such developments, the former General Secretary of the Trade Union Congress, John Monks, criticized consultants for promoting a "dubious approach" to union recognition, one "far more suited to the aggressive nature of US industrial relations."¹³ Unlike their US counterparts, British unionists are largely unfamiliar with anti-union consultants, and in several recent campaigns, UK unions have been blissfully unaware of the Burke Group's presence, even as they have watched employee support for unionization

⁹ On organizing in the healthcare sector, see Paul F. Clark, "Health Care: A Growing Role for Collective Bargaining," in Paul F. Clark, et al, eds., *Collective Bargaining in the Private Sector* (Industrial Relations Research Association Series, Champaign-Urbana, 2002), pp. 91-135.

¹⁰ On organizing among immigrant employees, see Ruth Milkman, ed., *Organizing Immigrants* (Cornell UP, 2000).

¹¹ Labor Information Services web page at www.laborinformationservices.com/ (March 5, 2003). The Burke Group files financial reports under the name, Labor Information Services, Inc.

¹² Charlotte Yates, "Staying the Decline in Union Membership: Union Organizing in Ontario, 1985-99," *Relations Industrielles/Industrial Relations*, 55:4, pp. 640-674.

¹³ John Monks, General Secretary Trade Union Congress, letter to Keith James, Chairman, Eversheds, July 4, 2000.

hemorrhage before their eyes. Following a five-year campaign to organize employees at General Electric Caledonian, Britain's largest private-sector union, Amicus, lost decisively a representation ballot in June 2002. Unaware that that Burke consultants were running the company's campaign, one bewildered union official remarked after the crushing defeat:

We have been blown out of the water... The result is a huge shock. We can't explain why our arguments for union recognition have been rejected...It is quite obvious that those who said they would vote for us have changed their mind. God knows why.¹⁴

The GE campaign is not an isolated case. The British union running the organizing drive at Amazon, the Graphical Print and Media Union, reported that the company mounted the most aggressive anti-union campaign it had ever encountered and accused management of sacking union activists and committing several other illegal practices. The union has temporarily abandoned its flagship organizing drive among distribution employees at Amazon.¹⁵ Likewise, after encountering Burke consultants during a 18 month organizing campaign at T-Mobile in 2002-2003, one Communication Workers Union official complained: "This is the first time that a blue-chip telecom operation has recruited ruthless union busters from the United States, and it could represent a downward spiral in UK industrial relations."¹⁶ However, aggressive consultant activity is still relatively uncommon in Britain and it remains to be seen whether consultants such as the Burke Group will become a standard feature of the union recognition process.¹⁷

- **The Burke Group and the *Chinese Daily News* Campaign**

Perhaps the best way to examine the full impact of the Burke Group's activities is through a detailed examination of one counter-organizing campaign. The Burke Group's ongoing

¹⁴ Amicus official quoted in "Aerospace workers vote against union recognition," *The Evening Times* (Scotland), June 4, 2002. Amicus lost the ballot, conducted by the Central Arbitration Committee (Britain's NLRB), by 449-243. In the UK, the Burke Group operates under the name, TBG Consulting.

¹⁵ Author's interview with Andrew Snoddy and Tony Burke, Graphical Print & Media Union, May 15, 2002.

¹⁶ Communication Workers Union Recruitment Director, Donald MacDonald, quoted in "T-Mobile Members Lose Campaign for an Independent Voice," *Unions in T-Mobile* (Connect-CWU), May 26, 2003. T-Mobile is owned by the German firm, Deutsche Telekom, a unionized company with worker directors on its supervisory board. The ballot at T-Mobile, which the union lost by a two-to-one margin, was a "voluntary ballot," i.e., not conducted under the supervision of the Central Arbitration Committee.

¹⁷ In contrast with the NLRA, the UK Employment Relations Act encourages voluntary agreements between unions and employers and provides for certification based on documentary evidence of union membership. Thus, there exists significantly less opportunity for lengthy and aggressive consultant anti-union campaigns.

campaign by at the *Chinese Daily News* (CDN) in Monterrey Park (a suburb of LA) offers a stark illustration of the firm's destructive impact on workplace relations, its connection to unfair labor practices, and the substantial financial cost of its campaigns.¹⁸ The Burke Group's activities at the CDN provide a copybook example of the strategies that have become standard features of consultant campaigns: tactics designed to delay representation and bargaining procedures, the harassment of union activists, scare-mongering stories about the allegedly disastrous consequences of unionization, threats of plant closures, job losses, and the removal of existing wages and benefits in the event of a union victory, and intensive opposition that continues after workers have voted "yes" to unionization. The events at the CDN's Monterrey Park operation, moreover, contrast with significantly less acrimonious organizing campaigns at its New York and San Francisco offices, where local management did not recruit anti-union consultants.

The *Chinese Daily News* campaign offers additional evidence of the abject failure of the National Labor Relations Act (NLRA) to protect employees against the actions of aggressively anti-union employers. As the events at the CDN demonstrate, a firm that is resolutely determined to fight an organizing campaign, and possesses sufficient financial resources, can frustrate the democratic will of its employees for months or even years. In addition to perfecting the art of confusing and intimidating employees – while skirting the limits of the law, if not actually violating it -- consultants excel at prolonging the representation process. They adeptly exploit the hearings process before the election, the appeals process after the election, and the NLRB's lengthy delays (and inadequate penalties) in remedying unfair management practices. The CDN and countless other firms like it have exploited the weaknesses of the NLRA to considerable success: as a result of overt employer opposition that continues after an election victory, over one quarter of certified unions fail to secure first contracts.¹⁹ Fred Feinstein, General Counsel of the

¹⁸ The following section is based on the author's interviews with representatives from the CWA-CDN Organizing Committee, The Newspapers Guild-CWA, TNG-CWA Local 39521, CWA District 9, International Affairs CWA, *China Daily News* employees, and members of the Asian Pacific American Labor Alliance. The *Chinese Daily News* management and the Burke Group declined to be interviewed.

¹⁹ Several studies have concluded that unions are significantly less likely to secure a first contract when a consultant is present. Consultants encourage employers to believe that they haven't "lost" an organizing campaign until they sign a contract with the union. In contrast, almost all unions that gain recognition as part of a "labor peace agreement" (limiting the conduct of both management and union during the organizing campaign) are able to negotiate first agreements. Richard Hurd, "Union Free Bargaining Strategies and First Contract Failures," in P. Voos, ed., *Proceedings of the 48th Annual Meeting of the Industrial Relations Research Association* (Madison, WI,

Clinton NLRB, recently warned that employees' ability to develop a successful collective bargaining relationship is "too often undermined by the potential of years of litigation that can follow a vote to unionize."²⁰ The CDN campaign provides a perfect illustration of Feinstein's comments. Over two year they voted for unionization, the CDN employees are still without collective representation. The tribulations of the mostly Taiwanese employees are also symptomatic of more widespread problems affecting immigrant workers. Frequently isolated by cultural and linguistic barriers, they are especially vulnerable to coercion by anti-union employers who would deny their legal right to choose a union.²¹

The *Chinese Daily News* is the largest Chinese language newspaper in North America, with over 200 employees at four locations – Los Angeles (Monterrey Park), San Francisco, New York, and Toronto.²² For the past quarter century, it has published a daily newspaper in Mandarin, which currently has a circulation of over 100,000. In common with several of the Burke Group's other clients, the newspaper's parent company, Taiwan's *United Daily News*, is fully unionized at home.²³ In October 2000, the paper's 152 employees at Monterrey Park started an organizing campaign with The Newspapers Guild-Communication Workers of America (TNG-CWA) after management announced that, as part of a financial restructuring program, it would rescind a scheduled pay increase and require all employees to sign an "employment at will" declaration, allowing the paper to terminate their positions at any time. But employees' grievances predated the restructuring program. Employees complained that, for many years, management had forced

1996); Gordon Pavy, "Winning NLRB Elections and Establishing Collective Bargaining Relationships in S. Friedman, *et al.*, eds., *Restoring the Promise of American Labor Law* (Cornell UP, 1994); Adrienne Eaton & Jill Kriesky, "Union Organizing Under Neutrality and Card Check Agreements," *Industrial & Labor Relations Review* 55 (2001). The employer tactic appealing unfavorable decisions to the courts has become increasingly commonplace during the past three decades. Employers believe, quite correctly, that they are more likely to get a favorable decision from the Appellate Courts, especially in the D.C. Circuit, which now hears the greatest number of appeals concerning NLRB decisions. In addition, the mere fact that the appeals process delays a final judgment for months or years benefits employers.

²⁰ Fred Feinstein, "The Limits of Reform at the NLRB," Paper Delivered at UCLA Institute for Labor and Employment, November 15, 2002.

²¹ On the obstacles faced by immigrant workers attempting to organize, see Milkman, *Organizing Immigrants*.

²² In recent years, the Burke Group has developed a sub-specialty in counter-organizing campaigns in the newspaper industry, which has been characterized by acrimonious labor-management relations. In addition to the *Chinese Daily News*, the Burke Group orchestrated pressroom campaigns at the *LA Times* and *Orange County Register* in 2002.

²³ Other companies that are unionized at home, but have hired the Burke Group in an effort to remain union free in their US operations include the auto companies Daewoo Motors (unionized in Korea) and SAAB (unionized in Sweden). On the anti-union practices of foreign employers operating in the US, see William Cooke, "Union Avoidance and Foreign Direct Investment in the USA," *Employee Relations*, 23:6 (2001).

them to work long hours with no overtime pay,²⁴ and had funded bonuses for top performers through reductions in pay for other workers. However, most employees believed that their non-citizenship status and limited command of English would prevent them from obtaining alternative employment. Normally reluctant to disobey their managers, 95 percent of the employees broke with cultural tradition and signed union authorization cards within a month of the start of the campaign. The union then requested that the company grant recognition based on the authorization cards, but management refused, stating that a secret ballot election was the only proper method of disclosing the true wishes of the employees. The newspaper's parent company appointed a new manager at the Monterrey Park facility, and assured employees that he would deal with their grievances. Thus, management argued, the union had "already reached its goal."²⁵ In addition to tackling workplace problems, however, the new manager recruited the services of Burke consultant Larry Wong, who specializes in counter-organizing campaigns involving predominantly Asian or Pacific Island employees.²⁶ In a clear indication of who would be running the anti-union campaign, the new manager provided Wong with a "luxury suite" inside the newspaper building.²⁷ Although controlling overall strategy and conducting limited direct persuader activity (consultant-employee contact), Wong and other consultants have largely remained in the background, running the campaign through local management and supervisors.

Management immediately initiated an aggressive anti-union campaign. In an effort to exploit the cultural sensitivities of the workforce, the company publicly humiliated several union activists and interrogated employees about their loyalty to the company. The newspaper's attorneys delayed the representation proceedings at every opportunity, with the bargaining unit hearings

²⁴ The *Chinese Daily News* is currently under investigation by the California Department of Labor's Division of Labor Standards Enforcement for alleged violations of state and federal wage and hour laws. CDN employees reported being cheated out of state-mandated overtime payments and instructed to falsify documents for inspectors

²⁵ *Chinese Daily News*, "Fair is Fair" (no date).

²⁶ Larry Wong joined the Burke Group in 1985 after working in human resources in the banking and insurance industries. The Burke Group's consultant list states that Wong "has become increasingly involved in providing third party persuader services to companies with ethnically diverse work forces, particularly when the workforce has a large percentage of Asian/Pacific Islanders." "Burke Group Consultant Listing" (no date).

²⁷ Most anti-union campaigns are run entirely by consultants and select groups of top management. According to one leading practitioner, decisions made by these groups are "vitally important" and thus there is a "compelling need for secrecy." Russell J. Thomas, "A Managers Guide to Union Avoidance: Executive Summary." Available at: www.paradine.us/rjtlaborlaw/union.html (last visited September 5, 2002).

alone taking over 3 months to complete.²⁸ Among other delaying tactics, management told the board that one quarter of the employees were in fact supervisors (and therefore excluded from the bargaining unit), thereby forcing vulnerable employees to testify about their work. It also argued that the Monterey Park workforce should be split into seven separate bargaining units. The NLRB rejected management's arguments, and, in February 2001, finally set an election date, which would be held one month later.

The company then intensified its anti-union invective. Management told employees that, if the union won, they would lose wage increases and that the plant might be forced to relocate to Taiwan. Managers and supervisors held captive group and one-on-one meetings with employees at all times of day and night, questioning them about their union sympathies and warning of dire repercussions, for both individual employees and the company as a whole, if the union were to prevail.²⁹ Management offered pay increases or promotions to employees who agreed to campaign against the union, and distributed negatives stories about TNG-CWA, while telling employees that it was illegal for them to discuss unionization at work. After the employees enlisted the support of local, state and national politicians, the paper's attorneys threatened to sue for slander lawmakers who had criticized its anti-union conduct. State Assemblywoman Jackie Goldberg, commented on management's activities: "In its editorials, the newspaper says it supports America – but you cannot support America while violating its laws."³⁰

The company's anti-union campaign literature has stressed issues that have become standard features of consultant campaigns. It has accused the union of intimidating and lying to employees, injecting unnecessary confrontation into the workplace, and threatening the financial

²⁸ Delaying the representation process is a standard consultant tactic. Consultants tell employers that time is on their side and recommend filing frivolous complaints with the NLRB that delay the election and prevent the expeditious enforcement of the law. One prominent "union avoidance" law firm recently advised that an employer should view the hearings process as "an opportunity for the heat of the union's message to chill prior to the election." Jackson-Lewis, "Time is on Your Side," *union kNOw*, Summer 2001.

²⁹ One-on-one meetings between supervisors and employees are probably management's most effective method of conveying its anti-union message, and because there are no witnesses to these meetings, it is difficult for the union to establish violations of the law, such as threats of reprisal or promises of benefit.

³⁰ Goldberg quoted in "Chinese Workers Rally Support," *The Guild Reporter*, April 26, 2002. Other politicians who have criticized the CDN campaign include Congressman Sherrod Brown, Congresswoman Hilda Solis, State Senator Gloria Romero and Monterey Park Councilwoman (now State Assemblywoman) Judy Chu. In May 2002, the California State Assembly's Asian Pacific Islander Caucus and Labor Committee held hearings on the violation of immigrant workers' rights, including those at the *Chinese Daily News*.

wellbeing of the company and the job security of employees. In addition to these long-established consultant themes, CDN management has used culturally specific threats and appeals in its attempt to discourage employees from unionizing. Throughout the campaign, management has sought to exploit employees' loyalty to the paper and their concern for its reputation in a non-Asian community. It has publicly excoriated union supporters in company newsletters and accused them of introducing confrontation that threatens to "destroy what we have achieved against insurmountable difficulties and is now proudly displayed in front of all other ethnic groups."³¹ Management compared the union with China under Chairman Mao, and stated that visitors from China had commented on the organizing drive: "We saw these happenings so many times during the Cultural Revolution. This is just the same!" It accused organizers of attempting to silence pro-company employees: "None of us wants to live under 'denouncement' as if we were in Mainland China.... How sad indeed for one to be in the U.S., a free society and not dare to speak for oneself."³² At one mandatory meeting, the firm's CEO, Duncan Wang, asked rhetorically, why would employees at a Chinese newspaper want to bring in American outsiders in the form of the union?³³

But the company's thinly veiled threats did not produce the desired result. After a five-month long anti-union campaign orchestrated by Burke consultants, CDN employees voted 78-63 in favor of union representation on March 19, 2001.³⁴ CWA officials claimed that, by supporting unionization, the CDN employees had surmounted tremendous cultural and psychological barriers. Prior to the campaign, few employees had experience with unionization and deference to managerial authority was deeply ingrained among the workforce. One reporter explained: "Culturally, the employer is perceived as a father who takes care of you."³⁵ The result is also noteworthy because the CDN employees are the first Chinese-language media employees in the country to vote to unionize.³⁶ Since the election, however, the company has steadfastly refused to

³¹ Ibid.

³² *Chinese Daily News*, "Fair is Fair," (no date).

³³ *Chinese Daily News*, "Let Truth Speak," April 4, 2002; *Chinese Daily News*, "Fair is Fair," (no date).

³⁴ Although it expected a larger margin of victory, the union attributed the narrowness of the vote largely to the intensive anti-union campaign and believes that few of the employees are ideologically opposed to unionization.

³⁵ Lien-Yi Wang, quoted in "TNG Gain First Chinese-Speaking Unite," *The Guild Reporter*, April 20, 2001.

³⁶ The union has remained committed to the campaign because it represents one of its first successes in the "ethnic media," an increasingly important sector of US media industry. TNG-CWA already represents workers in several Yiddish- and Spanish-language publications. The CWA's broadcasting wing (NABET) has won organizing victories in outlets of Spanish-language TV giant Univision and at a Korean language radio station. The campaign also marks

recognize the union. Undaunted by its election defeat, management appealed the result to the NLRB, claiming that at least one supervisor had made known her support for unionization, while management had “remained neutral” throughout the campaign. As a result, it argued, employees had gained the false impression that the company favored unionization.³⁷ At the same time that it professed neutrality to the NLRB, the company told to employees that it was prepared to spend \$1 million to avoid signing a contract with the CWA. To achieve this end, it has used every legal mechanism at its disposal to stall bargaining with the union for years, if necessary.

In June 2001, the company initiated a campaign of retaliation, eliminating the jobs of several pro-union employees. In response, TNG-CWA has filed over twenty unfair labor complaints accusing management of coercive conduct (see Appendix B). The company also filed objections to the legality of the election and its attorneys ensured that NLRB hearings on its objections lasted for as long as possible. In August 2001, the regional NLRB upheld the election result, but the newspaper has appealed its decision to the national labor board. Management accused the union of using a coercive corporate campaign to force the paper to cease contesting the validity of the outcome,³⁸ but warned that it “does not intend to be intimidated into giving up the legal right of its employees to a fair election.” However, its determination to overturn the result will not end with the NLRB. The company announced that, if the board were to uphold the result, it would “proceed to the Court of Appeals for an ultimate determination on the validity of the

the first time that the TNG-CWA has hired a Chinese-speaking organizer – a former CDN reporter. Although the ethnic media is as profitable as other sections of the media, employees in this rapidly growing sector are often paid significantly less and labor under worse conditions than other media employees. In 2000, there were at least 166 weekly ethnic newspapers (most ethnic papers are weeklies, rather than dailies), representing over 45 different nations, being published in the United States. In addition to this number, there were 144 Hispanic weeklies and 110 Jewish weeklies. *International Year Book: The Encyclopedia of the Newspaper Industry: Part Two – Weeklies* (Editor & Publisher, 2000)

³⁷ The union claims that the small number of contested votes would not affect the outcome of the election. However, management maintains that, given the strong respect for authority in Chinese culture, the open support for unionization among supervisory personnel made a fair election impossible. Allegations that supervisors voted, or otherwise improperly participated, in NLRB elections are standard features of consultant campaigns in which unions win the ballot.

³⁸ The union has conducted a vigorous international campaign in support of the workers’ freedom of association. In July 2002, the TNG-CWA led a delegation of CDN employees and leaders from the Asian-American labor community to meet with lawmakers and union leaders in Taiwan. As a result of these meetings, legislators and labor leaders in Taiwan have criticized the *United Daily News*. The campaign has also become a cause célèbre for journalists unions around the globe and has attracted support from the international trade secretariat, Union Network International and the International Confederation of Free Trade Unions. The TNG-CWA has also organized a worldwide email campaign to protest the company’s refusal to recognize the election result.

election,” thereby prolonging the process for several more months or years.³⁹ In July 2002, the regional labor board postponed hearings on several ULP complaints until after the national NLRB has ruled on the legality of the election. At the time of writing, the board has yet to announce its decision. Even if the NLRB were to uphold the result, however, management will likely continue its campaign of delay, intimidation and harassment. After all, orchestrating its anti-worker campaign are consultants who have a financial interest in prolonging proceedings for as long as possible and fighting the union to the bitter end, regardless of what level of support it enjoys among the employees. After leaving her position at the newspaper, CDN reporter Hsiao-tse Chao described the intensity of the Burke Group campaign:

It was political terror... The majority of the employees thought that their phones were tapped. They talked about hidden cameras in the corners. I thought this was a democratic country. You [should be able] to exercise the right to organize — successful or not.⁴⁰

In November 2002, shortly before awarding employees’ annual bonus (which can account for up to 10 percent of their total salary), management circulated a petition stating that employees no longer desired unionization. Not surprisingly, having witnessed the victimization of union activists and lost confidence in the ability of the NLRB to protect their freedom of association, three-quarters of the employees signed the employer petition. CDN management then submitted the petition to the board, asking it to dismiss the CWA’s request for certification.

The immediate financial costs of the newspaper’s anti-worker campaign have been considerable, especially when one considers the small size of the CDN workforce. In 2001, the CDN paid Burke consultants at least \$221,737, with Larry Wong alone receiving \$132,150 for his services. In 2002, the CDN paid Wong at least a further \$83,900, according to records filed with the Department of Labor (DOL).⁴¹ However, the true cost of the campaign is likely much greater as these amounts exclude those costs that the CDN has incurred beyond its direct payments to the Burke Group, including management and supervisors time off to meet with consultants and to

³⁹ Steven D. Atkinson, Atkinson, Adelson, Loya, Ruud & Romo (CDN lawyers), Re: *Chinese Daily News* (no date). In recent decades, employers that lose at the NLRB have demonstrated an increasing disinclination to accept NLRB decisions as the “final word” on election disputes, believing, quite correctly, that they have a greater likelihood of success at the federal courts. See James Brudney,

⁴⁰ Quoted in Ji Hyun Lim, “Chinese American Newspaper Disputes Unionization,” *Asian Week*, January 10, 2003.

⁴¹ Consultant reporting forms required under the 1959 Labor-Management Reporting and Disclosure Act (LM20s and LM21s) are now available on-line at the Department of Labor’s web pages: www.dol.gov/esa/regs/compliance/olms/rrlo/lmrda.htm

conduct captive group and one-on-one meetings with employees, employee time off to attend captive meetings, and the cost of legal counsel -- a vital service considering the number ULP complaints in the campaign. The total cost of these expenses is likely to exceed the cost of any direct persuader activity. Thus, the total price of the anti-worker campaign is likely to be several times higher than the \$305,637 reported to date (the campaign is on-going) to the DOL.⁴²

At this rate, the CDN is well on its way to spending the \$1 million it promised for its campaign to undermine the democratic choice of its employees. The average salary of CDN employees (most of whom are Taiwanese immigrants with approximately 10 years service) is \$24,000. If CDN were to recognize the union tomorrow, it will have squandered hundreds of thousands of dollars on consultants who employ whatever means they deem necessary to prevent employees from exercising their legal right to choose a union; it will have needlessly, and perhaps irreparably, poisoned relations between management and employees; it will have damaged the reputation of the newspaper and its parent company, both in the United States and internationally; it will have ruined the careers of several pro-union employees; and it will have willfully frustrated the democratic choice of its workforce. Over two years after they voted for to unionize, CDN employees at Monterrey Park are still without collective representation. Even if the company eventually breaks the organizing campaign, its victory will likely come at a high price. Consultants such as the Burke Group are hired on a contract-by-contract basis and their sole concern is defeating the organizing drive, as their reputation depends on the ability to boast overwhelming campaign success rates, especially in campaigns in which an overwhelming majority of employees support unionization prior to their arrival.⁴³ As the events of the *Chinese Daily News* campaign have demonstrated, anti-worker consultants display little concern for the destructive impact of their activities on workplace relations. In the long term, their hardball and frequently illegal tactics are likely to create more problems for management than they solve; in

⁴² The Burke Group conducts all its direct persuader activity under the name Labor Information Services, Inc. (LIS). This allows the firm to avoid reporting all other non-persuader activity conducted under the name the Burke Group. The initial filing with the Department of Labor by LIS (LM 20, dated March 30, 2001) stated that its campaign at *Chinese Daily News* would commence on November 13, 2000 and that it had “no written agreement” with the company as to a “maximum billable amount.”

⁴³ On its web pages, the Burke Group claims a 96 percent success rate in counter-organizing campaigns and tells clients that its consultants specialize in “the tough ones.” Anti-union consultants have claimed overwhelming victory rates for the past half-century, but rarely provide evidence to back up such assertions. Its list of recent campaigns makes no mention of several recent high profile losses.

this respect, these firms are perhaps best described as “management busters,” rather than “union busters.”

The second anniversary of the union “victory” brought further bad press for the newspaper. On March 19, 2003, Representative Sherrod Brown (D-OH) praised the “American struggle” of the CDN’s immigrant employees in the official publication of the U.S. legislature, the *Congressional Record*. He commended their “tireless efforts as they continue to wrestle with the overwhelming resources of a foreign employer committed to silencing their voices and thwarting their right to organize under US labor law... *Chinese Daily News* employees put their faith in America and in U.S. labor law... We should recognize the faith and allegiance of those legal immigrants who subscribe to our rule of law.”⁴⁴ Also on the two-year anniversary of the vote, several CDN employees met with officials at NLRB Region 21 to insist that the board process their ULP complaints without further delay. The employees believed that, if board officials were forced to deal directly with the people adversely affected by the company’s illegal tactics, rather than simply receive yet more legal documents, they might be more inclined to take immediate action. As yet, however, neither the regional labor board nor the national NLRB – where the case has languished for almost two years – has shown any signs of movement and have instead blamed the continuing delays on inadequate staffing levels and high caseloads. Claiming that it was “sensitive to the need to expeditiously resolve representation disputes,” the NLRB has recently established a goal of certifying the results of recognition elections within 60 days of the union’s initial petition for an election.⁴⁵ The TNG-CWA petitioned for an election at the *Chinese Daily News* in November 2000 -- over 1000 days ago, as of November 2003.

The CDN campaign could well serve as a poster child for the dysfunctional nature of the contentious NLRB election system and an advertisement for the democratic advantages of card check recognition.⁴⁶ Although not substantially different from scores of other organizing

⁴⁴ *Congressional Record*: March 19, 2003 (Extensions) [Page E514].

⁴⁵ The NLRB claims that its “actual median time” from petition to certification was 54 days in 2001 and 53 days in 2002. National Labor Relations Board, *Fiscal Year 2004 Annual Program Performance Plan and Fiscal Year 2002 Annual Performance Report, Government Performance and Results Act of 1993* (March 2003), pp. 18-19.

⁴⁶ In 2001, the AFL-CIO estimates, only 18 percent of new union members in AFL-CIO affiliated unions joined through NLRB elections. Most of the remaining 82 percent joined as a result of card check recognition, though some joined as a result of mergers between affiliated and non-affiliated organizations, new affiliations and extension of

campaigns across the country, it provides a stark example of the dismal state of workplace democracy in the United States, the frequent excesses of modern anti-unionism and the extraordinary lengths to which employers will go in their determination of frustrate employees' right to form a union. The campaign also demonstrates the virtual impotence and irrelevance of the NLRB in the face of sustained employer recalcitrance. Employers intent on resisting unionization have little to fear from a legal system that offers such weak protection for the right to form a union and such great opportunities for delay and belligerence. However, another striking feature of the no-holds-barred campaign at Monterrey Park is its contrast with simultaneous organizing drives at the newspaper's New York and San Francisco offices. At both locations, local management ran what is perhaps best described as an ordinary, run-of-the-mill, aggressive anti-worker campaign. Management ran a determined "vote no" campaign and hired a law firm to oppose unionization, but it did not recruit the services of anti-worker consultants and the outcomes have been dramatically different from that of the Monterrey Park campaign. In significantly less acrimonious campaigns at New York and San Francisco, employees voted for union representation and the company recognized the outcome. And the differences do not end with the election campaigns. Management is bargaining hard at both locations, but it is not attempting to circumvent employees' democratic choice through delays, retaliatory acts, legal maneuvering, and pronouncements that it would never recognize the union, let alone negotiate a contract with it.⁴⁷ Whatever else distinguished the Monterrey Park campaign from those in New York and San Francisco, there seems little doubt that the Burke Group's activities have played a central role in transforming a 95 percent display in favor of unionization into a destructive pitch-battle designed to intimidate employees against exercising their right to form a union.

- **Anti-Union Consultants and the Subversion of Workplace Democracy in the U.S.**

For the past three decades, consultants such as the Burke Group have been at the epicenter for a sustained and largely successful campaign to undermine democracy in the American workplace.

existing collective agreements to newly-expanded facilities. Jonathan Hiatt, General Counsel, AFL-CIO, comments at AFL-CIO Lawyers Conference, New Orleans, April 2003.

⁴⁷ The union has now successfully negotiated its first contract at the New York facility, where the paper is known as the *World Journal*. Both units are substantially smaller than that at Monterrey Park, and are composed exclusively of advertising-sales employees. At Monterrey Park, the union represents a "wall-to-wall" unit covering all departments, from editorial to ad sales to production.

Consultants' anti-worker campaigns are now more intensive, sophisticated and expensive than at anytime during the past half-century. As a result, there now exists an enormous and growing democratic deficit in the American workplace: over 40 million private-sector employees would like union representation but are unlikely to get it under the current system of NLRB elections.⁴⁸ However, the destructive impact of anti-worker consultants is not limited to their role in undermining the democratic choice of employees such as those at the *Chinese Daily News*. Through their web pages, newsletters, videos, and face-to-face contacts, consultants have also played an important role in the dissemination of extreme anti-union attitudes among American management, advising clients to fight organizing campaigns to the bitter end and to disregard their employees' desires for collective representation. Consultants encourage employers to view attempts by their employees to exercise their legal right to choose a union as an "attack on their company," and tell them that they have a *right* to operate union free.⁴⁹ They counsel their clients to consider the representation process as a decision on unionization that is taken by them, rather than by their employees, thereby inverting the entire objective of federal labor policy. For consultants, employee support for unionization is something that they must undermine in the course of the counter-organizing campaign, not something employers should consider when deciding whether or not they intend to continue operating union free. By promoting such attitudes, consultants have played an autonomous role in transforming the certification process from an objective, fact-finding exercise (the original intent of the NLRA) into an all-out struggle that frequently poisons workplace relations for years after the conclusion of an organizing campaign, regardless of its outcome.

In 2002, U.S. House member Charlie Norwood (R-Georgia) introduced a bill (H.R. 4636) designed to outlaw card certifications, thereby making NLRB elections the exclusive route to union certification.⁵⁰ The anti-union Labor Policy Association (LPA) and other supporters of the Norwood bill claim that union organizers coerce and mislead unwitting employees into signing authorization cards. But the *Chinese Daily News* campaign provides a stark illustration of the real reason why a growing number of unions have turned to card certification during the past

⁴⁸ Richard Freeman and Joel Rogers, *What Workers Want* (Cornell University Press, 1999).

⁴⁹ The Burke Group, www.tbglabor.com/press6.htm (May 5, 2003); Labor Relations Services, Inc. www.proemployer.net/about_labor_relations.htm (May 5, 2003).

⁵⁰ The absurdly mistitled "Workers' Bill of Rights" was co-sponsored by, among others, the Majority Leader in the House, Tom DeLay (R-Texas).

decade: their desire to circumvent employers' lengthy, aggressive and illegal anti-union campaigns. Card check recognition is a vastly more democratic system than NLRB elections. As the LPA well understands, unions have nothing to fear from free and fair elections. According to one recent poll, the number of non-union employees that desire union representation is currently higher than at any time since the early 1980s.⁵¹ The problem with NLRB elections is that they are neither free nor fair. They are, in the apposite phrase of one labor scholar, "elections without democracy."⁵² Aggressive and illegal anti-union campaigns are now a pervasive and routine aspect of American workplace relations. Today, the right to choose a union in the United States exists in law only on paper; in practice, the law gives hostile employers virtual veto power over that "right." If Congress were serious about upholding the sanctity of what Representative Norwood called a "fundamental American right" (the free election) it could do worse than start by increasing the virtually non-existent regulation of an industry that profits from the destruction of that right.⁵³ After that, it might turn its attention to the sclerotic and moribund system of union certification that has allowed the *Chinese Daily News* and countless other employers to break the law with impunity, thereby making a mockery of the democratic choice of their employees. It is time that Congress acknowledged that the right to choose a union is a *fundamental American right* and that the thousands of employers across the country who routinely and systematically violate that right are unpatriotic and un-American. The immigrant employees of the *Chinese Daily News* were encouraged to put their faith in American law, American justice and American democracy. They were simply attempting to exercise what is supposed to be a federally protected right. The *Chinese Daily News* employees, and millions of other like them across the country, deserve much better. The Bush Administration is keen to export democratic institutions throughout the globe. But how about a little bit more democracy in the American workplace?

⁵¹ David Hart Associates poll on union attitudes reported in Kent Hoover, "Labor unions aim to capitalize on public anti-corporate attitude," *Houston Business Journal*, September 9, 2002. (Need to get poll citation).

⁵² Craig Becker, "Elections Without Democracy: Reconstructing the Right to Organize," *New Labor Forum*, Fall/Winter, 1998, pp. 97-109.

⁵³ In its first major policy action in the arena of labor-management relations, the Bush Department of Labor rescinded new financial reporting requirements for anti-union consultants enacted in the dying days of the Clinton Administration. Employer groups had lobbied vigorously against the Clinton rules – which narrowed the so-called "advice exemption" to the LMRDA -- arguing that they would discourage employers from engaging the services of consultants and supply unions with a powerful organizing tool, i.e., more precise information on how much employers spend on anti-union activities.

- **Appendix A: Burke Group Campaigns Costing over \$40,000, 1995-2002**

Employer	Location	Year	Reported Cost (\$)*
Circus Circus	Robinsonville, MS	1995	40,086
SAMCO	San Fernando, CA	1995	126,663
Reno Hilton Hotel	Reno, NV	1995	61,972
Tomatek, Inc.	Firebough, CA	1995	118,594
Weyerhaeuser	Yuma, AZ	1995	43,053
K-Mart Corporation	Troy, MI**	1996	163,028
Precision Castparts Corp.	Portland, OR	1996	63,436
TAWA Companies	Buena Park, CA	1996	44,928
C.J. Coakley	Merrifield, VA	1997	50,277
Grimmway Farms	Bakersfield, CA	1997	239,970
Precision Castparts Corp.	Portland, OR	1997	395,626
MCI	Washington, DC	1997	56,406
Reno Hilton Hotel	Reno, NV	1997	88,163
Welcome Market, Inc	Hayward, CA	1997	69,981
President Casino	St. Louis, MO	1997	45,237
Relay America	Riverbank, CA	1997	65,052
Catholic Healthcare West	Sacramento/LA, CA	1998	2,626,514
C.J. Coakley	Merrifield, VA	1998	64,325
Mercy Healthcare	Phoenix, AZ	1998	196,791
Ready Pac	Irwindale, CA	1998	143,174
Reno Hilton Hotel	Reno, NV	1998	351,995
Service Corp. International	Houston, TX	1998	154,896
Mercy Healthcare	Whittier, CA	1998	42,521
UCSF Stanford	San Francisco/Palo Alto, CA	1998	115, 625

- **Appendix A: Burke Group Campaigns Costing over \$40,000, 1995-2002 (continued)**

<u>Employer</u>	<u>Location</u>	<u>Year</u>	<u>Reported Cost (\$)*</u>
K-Mart Corporation	Troy, MI**	1999	416,305
Long Beach Medical Center	Long Beach, CA	1999	48,133
Reno Hilton Hotel	Reno, NV	1999	109,440
Warsaw Healthcare Center	Warsaw, VA	1999	52,747
PECO Energy	Philadelphia, PA	1999	51,187
CPL Subacute, LLC	Middletown, CT	2000	47,201
Children's Hospital	San Diego, CA	2000	43,204
Santa Barbara Cottage Hospital	Santa Barbara, CA	2000	99,445
Enloe Medical Center	Chico, CA	2000	76,011
Francis Schervier Hospital	Bronx, NY	2000	126,138
Good Samaritan Hospital	Los Angeles, CA	2000	131,145
Grove Worldwide	Shady Grove, PA	2000	98,604
Long Beach Medical Center	Long Beach, CA	2000	235,985
Somers Manor Nursing Home	Somers, NY	2000	50,000
Distribution and Auto Services	Wilmington, CA	2001	47,153
Bruce Hardware Floors	Addison, TX	2001	48,836
CHE – Mercy Fitzgerald Hospital	Darby, PA	2001	79,911
CHE – Holy Cross Hospital	Fort Lauderdale, FL	2001	65,396
Chinese Daily News	Monterey Park, CA	2001	221,737
Albert Einstein Medical Center	Philadelphia, PA	2001	102,142
Arden Hill Hospital	Goshen, NY	2001	74,401
Constellation Energy (BGE)	Baltimore, MD	2001	252,036
BHC – Pacific Gateway	Portland, OR	2001	42,117
Jefferson Market	New York City, NY	2001	45,750
JLG, Inc.	Machanicsburg, PA	2001	58,902
Kmart Corporation -- Canton	Troy, MI	2001	167,301
Magee Rehabilitation	Philadelphia, PA	2001	95,906
Mandalay Bay -- Luxor	Las Vegas, NV	2001	76,860
Robert Wilson, Sr.	Anaheim, CA	2001	53,829
Columbia Beverage Co.	Olympia, WA	2001	81,629
Excalibur Hotel	Las Vegas, NV	2001	69,923
Peak Oil	Anchorage, AK	2001	50,618
Terra Industries	Sergeants Bluff, IA	2001	57,639
Universal Molding Extrusion	Downey, CA	2001	74,386
Wilkes-Barre General Hospital	Wilkes-Barre, PA	2001	75,101
CHE – Brightside F & C	West Springfield, MA	2001	73,003
Rockaway Bedding	Randolph, NJ	2001	49,044
Orange County Register	Santa Ana, CA	2001	176,314

- **Appendix A: Burke Group Campaigns Costing over \$40,000, 1995-2002 (continued)**

Employer	Location	Year	Reported Cost (\$)*
CHE – Lourdes (Rancocas)	Camden, NJ	2002	109,675
CHE – Mercy Fitzgerald	Darby, PA	2002	52,901
Faurecia	Toledo, OH	2002	134,306
Magee Rehabilitation	Philadelphia, PA	2002	80,087
Michael Anthony Jewelers	Mt. Vernon, NY	2002	57,693
Milestone Power Station	Waterford, CT	2002	728,148
Mission Linen Supply	Santa Barbara, CA	2002	117,438
National Refrigeration & Air Conditioning, Inc.	Bensakenm, PA	2002	52,866
Chinese Daily News	Monterey Park, CA	2002	83,900
Orange County Register	Santa Ana, CA	2002	94,817
Robert Wood University Hospital	New Brunswick, NJ	2002	47,845
St. Mary's Medical Center	Apple Valley, CA	2002	62,876

*Note: These amounts are taken from LM20 and LM21 forms (Receipts and Disbursement Reports) filed by Burke Group (under the name, Labor Information Services, Inc.) with the Department of Labor, required under the 1959 LMRDA. Campaigns that, according to the Burke Group and the employer, did not involved direct persuader activities are not reported and thus not listed. In the case of Catholic Healthcare West, the amount reportedly paid to the Burke Group (\$2,626,514) is taken from Schedule A (Form 990) [Organization Exempt Under Section 501©(3)] filed by employer (a financial report required by non-profit healthcare organizations). As a result, unlike the other reported costs, that amount is likely to represent the total cost of the consultant campaign.

** Troy, Michigan is the location of the K-Mart's corporate headquarters. The actual counter-organizing activity at K-Mart was carried out at several different locations across the country, including Oakland and San Jose, California. Several other locations may also refer to the corporate HQ rather than the location of the counter-organizing campaign.

- **Appendix B: Unfair Labor Practice (ULP) Complaints against *Chinese Daily News* as of June 15, 2003**

1. The Following 9 ULPs Are Issued Consolidated Complaint by the NLRB 21 on May 30, 2003

21-CA-34626-1: Company interrogated employees regarding their involvement and/or participation in a union newsletter, threatened unspecified reprisals against employees, instructed employees to abandon their support of the union, and prohibited discussions amongst employees regarding working terms and conditions.

Status: Complaint issued by Region 21 on January 18, 2002.

Consolidated 21-CA-34717 and 21-CA-34626-1

Consolidated with 7 more cases on May 30, 2003

21-CA-34717- Filed 8-21-02: Company threatened the security of jobs as a result of the representation election results.

Status: Complaint issued by Region 21 on January 18, 2002.

Consolidated 21-CA-34717 and 21-CA-34626-1

Consolidated with 7 more cases on May 30, 2003

21-CA-35041 – Filed 4-22-02: Company constantly harassed reporter and organizing committee chairperson Lynne Wang in retaliation for her vocal support of the union support and for her affidavit given in support of 21-CA-34626-1.

Status: Consolidated Complaint issued by Region 21 on May 30, 2003

21-CA-35063: Company retaliated against union supporters by reducing or eliminating their annual bonuses and increases.

Status: Consolidated Complaint issued by Region 21 on May 30, 2003

21-CA-35110-1 Filed 5-02-02: Company prohibited bargaining-unit members from discussing any union-related matters during work hours, and threatened termination or discipline if they did so.

Status: Consolidated Complaint issued by Region 21 on May 30, 2003

21-CA-35211-1: Company disciplined (Performance Review) employee, Yun-min Pao, in retaliation for union activity.

Status: Consolidated Complaint issued by Region 21 on May 30, 2003

21-CA-35329 - Filed 9-16-02: Company reassigned reporter Ching-fang Chang's job duty in retaliation for union activities.

Status: Consolidated Complaint issued by Region 21 on May 30, 2003

21-CA-35429 – Filed 10-31-02: Company distributed management "minutes" threatening Organizing Committee member, Yun-min Pao, for distributing union newsletters. Originally filed as 35330, which was withdrawn.

Status: Consolidated Complaint issued by Region 21 on May 30, 2003

21-CA- 35482 – Filed 11-25-02: Company retaliated against Lynne Wang for participating in a union press conference in Taiwan.

Status: Consolidated Complaint issued by Region 21 on May 30, 2003

2. The Following 3 (plus 1) ULPs are in the Process of Seeking for 10J Injunction Relief

21-CA-35740 – Filed 5-02-03: Unjust suspension of three days higher standards of Yun-min Pao in retaliation for union support.

Status: Under investigation, combined with above 21-CA- 35211, for 10J relief

21-CA-35736 – Filed 5-06-03: Company terminated position of Jing Hua Zhang in retaliation for union support.

Status: Under investigation, combined with below 21-CA-35637, for 10J relief

21-CA-35637 – Filed 3-17-03: Overt Company engaged in surveillance of employees and threatened job status of circulation department employees Jeffery Sun, Loi Chan Phan, Chao-Chang Kan in retaliation of their union support.

Status: Under investigation, combined with above 21-CA-35736, for 10J relief

3. The Following 11 ULPs are Under Investigation by the NLRB Region 21

21-CA-34830 – Amended 11-11-01: Company's failure and refusal to furnish information relating to the termination of bargaining unit member William Chen. Unilaterally and without bargaining, the Company eliminated the job classification of Archivist and transferred this work to other departments.

Status: Under investigation

21-CA-35110-2 Filed 5-02-02: Company unilaterally and without bargaining instituted a strict policy prohibiting the discussion of Union matters during work hours and threatening employees with termination or discipline if they did so.

Status: Under investigation

21-CA-35211-2: Company unilaterally and without bargaining made changes to employee bonus system.

Status: Under investigation

21-CA-35331 – Filed 9-16-02: Company unilaterally and without bargaining replaced employees in graphics department with subcontractors.

Status: Under investigation

21-CA-35483 – Filed 11-25-02: Company unilaterally and without bargaining increased quotas for sales employees making it much more difficult to earn commissions and bonuses.

Status: Under investigation

21-CA-35497 – Filed 12-11-02: The Company is interfering with employees right of a union of their own choosing by requiring a Loyalty Petition.

Status: Under investigation

21-CA-35652 – Filed 3-22-03: Unilateral change requiring driver to use cell phones.

Status: Under investigation

21-CA-35653 – Filed 3-27-03: Unilateral Change – Creating the position of drivers' foreman.

Status: Under investigation

21-CA-35654 – Filed 3-27-03: Retaliation against employees for union activities, higher standards evaluations.

Status: Under investigation

21-CA-35655 – Filed 3-27-03: Retaliation against employees for union activities, reducing bonuses of the Organizing Committee.

Status: Under investigation

21-CA-35656 – Filed 3-27-03: Unilateral Change added duties to Editors and Typist.

Status: Under investigation

4. The Following 2 Cases Closed

21-CA-34829: Retaliation for organizing committee member Hui Jung Lee's support for the union by refusing to assign her to the Planning Department when her former position as an Archivist was eliminated. Instead, Lee was assigned to the Sales Department and required to perform work in which she had no skills base, and further threatened with termination if monthly quotas were not met.

Status: Dismissed by Region 21 NLRB and Office of Appeals denied the appeal.

21-CA-35139 – Filed 5-17-02: The Company widely distributed and posted a "newsletter" which publicly denigrated and humiliated those bargaining unit members who sought to enforce their rights under the National Labor Relations Act.

Status: Closed - May 3, 2003, Union verbally withdrew this charge.

5. The Following 2 Cases are held until election decision is made by national NLRB

21-CA-34626-2: In violation of the Act, the Company reassigned the work performed by reporter Hsiao-Tse Chao and interrogated Chao in retaliation for her union support. Chao testified at Board proceedings before and after the election in support of the Union.

Status: Held until election decision is made.

21-CA-35211-3 – Filed 6-25-02: Company discriminatorily withheld bonuses and raises for employee who filed charges.

Status: Held until election decision is made.