



NATIONAL RIGHT TO WORK LEGAL DEFENSE FOUNDATION, INC.
8001 BRADDOCK ROAD • SPRINGFIELD, VIRGINIA 22160 • (703) 321-8510

March 30, 2007

The Honorable Stephanie Tubbs Jones, Chairwoman
The Honorable Doc Hastings, Ranking Minority Member
Committee on Standards of Official Conduct
HT-2, The Capitol
Washington, DC 20515

BY FAX: 202-225-7392

Re: Request for investigation into misconduct of Rep. Robert Andrews (D-NJ)
for improper use of federal office to interfere with federal agency
proceedings thereby chilling employees' rights under federal law to
choose freely whether to unionize.

Dear Chairwoman Tubbs Jones and Ranking Member Hastings:

On behalf of the National Right to Work Legal Defense Foundation, an organization dedicated to defending employees against the abuses of forced unionism, I respectfully request that the Committee on Standards of Official Conduct open an immediate investigation into the recent alarming conduct of Representative Robert Andrews (D-NJ).

Specifically, it appears that Rep. Andrews violated several House rules by improperly interfering and prejudicing the adjudicatory proceedings of the National Labor Relations Board and by chilling employees' rights to decide, free of coercion, whether to elect a union as their exclusive bargaining agent.

Background

The National Labor Relations Board is scheduled to conduct a secret-ballot election on March 31, 2007 to determine whether or not employee dealers at Trump Plaza Hotel and Casino desire United Autoworkers (UAW) union representation. Leading up to this election, on March 25, 2007, Rep. Andrews aided UAW union officials in committing an Unfair Labor Practice by conducting a sham "certification" of authorization cards (see Exhibit 1, the Unfair Labor Practice Charge against the UAW filed March 30, 2007, at the National Labor Relations Board (NLRB)).

In a public ceremony held on March 25, 2007, and broadcast on local television, and reported on in the print media (See Exhibits 2 and 3), Rep. Andrews conducted a "card count" and announced the "certification" of the union, and signed an official-looking document titled, "Certification of Majority Status." According to the National

Labor Relations Act, only the NLRB has the authority of union “certification.” Rep. Andrews’ phony “certification” document reads as follows:

CERTIFICATION OF MAJORITY STATUS

We, the undersigned, conducted a confidential examination of Union authorization cards for the purposes of determining whether a majority of full time and regular part-time dealers, dual rate dealers, and dual rate supervisors at Trump Plaza Hotel and Casino have authorized the International Union, UAW ("UAW") to represent them in collective bargaining.

The verification of the Union’s majority was conducted by means of a comparison of a copy of the original signed cards and a list of current eligible employees in the bargaining unit provided by Trump Plaza Hotel and Casino to the Union **in accordance with NLRB rules.**

The undersigned **certify** that, based on a confidential examination of cards, as described above, **the majority** of Trump Plaza Hotel and Casino full time and regular part-time dealers, dual rate dealers, and dual rate supervisors **have authorized the UAW to represent them for the purpose of collective bargaining.**

(emphasis added).

Rep. Andrews Improperly Interfered with Federal Agency Proceedings

In leading this public, televised ceremony – video clips of which can be viewed at http://www.nbc40.net/view_story.php?id=1511 – Rep. Andrews improperly used his status as a Federal office holder to give this sham “certification” proceeding an imprimatur of formal approval by the federal government, contrary to Chapter 9 of the House Ethics Manual. Specifically, Rep. Andrews’ actions violate Chapter 9’s subsection on “Unofficial Representational Activities” in the manual’s guidelines for adhering to 18 U.S.C. sec. 205 and House Rule 41:

No person shall be an officer or employee of the House, or continue in its employment, who shall be an agent for the prosecution of any claim against the Government or be interested in such claim [or in connection with “any covered matter”]* **otherwise than as an original claimant or than in the proper discharge of official duties.**

(House Rule 41, emphasis added).

*Section 205 of title 18 uses the same standard for a “claim against the United States” and “any covered matter” which it defines as “any judicial or other proceeding, application, request for a ruling or other determination, [etc.]”

By intervening in the pending NLRB’s Representation Election proceedings, in a manner that is neither as “the original claimant” or “in the proper discharge of official duties,” Rep. Andrews interfered with, and improperly exerted influence over, the ongoing official proceedings of the federal agency as defined in 18 U.S.C. sec. 205. His interference improperly tainted the “laboratory conditions” necessary under the law to conduct a fair NLRB election and coerced and restrained the exercise of rights by employees under Section 7 of the National Labor Relations Act.

Rep. Andrews Misused Symbols of Official Sponsorship

Additionally, through the “direct use of official-appearing documents,” Rep. Andrews used his status and title as a U.S. Congressman to mislead employees into thinking that the sham “certification” was conducted “in accordance with NLRB rules” (see Exhibit 1). This improper cloak of authority – created in violation of the “Expressions or Symbols of Official Sponsorship” guidelines – has chilled the rights of employees as they attempt to exercise their right to a NLRB supervised secret-ballot certification election under the National Labor Relations Act (House Ethics Manual, ch. 9, section on “Expressions or Symbols of Official Sponsorship”).

As outlined in the unfair labor practice charge filed with the NLRB, Rep. Andrews and the UAW union officials he coordinated with, have “acted under a false imprimatur of NLRB authority and [have] deliberately created the false impression that the result of the election is a foregone conclusion, if it is conducted at all. The sham “certification” tends to interfere with the free exercise of employee rights because it suppresses turnout and the chills the right to vote in the NLRB election, induces employees to vote for the pre-“certified” representative, and disenfranchises employees of their right to vote under laboratory conditions that guarantee employee free choice.” (see Exhibit 1).

Rep. Andrews Gave Improper Support to a Commercial Enterprise (i.e. UAW)

Additionally, the actions by Rep. Andrews are of the kind that the “Support for Commercial Enterprise” section of Chapter 9 of the House Ethics Manual expressly states Members should avoid because it created the appearance that an enterprise – such as the UAW union – is accruing benefits “by virtue of influence improperly exerted from [a] position in Congress” (House Rule 43, cl.3).

This “appearance... [of] accruing benefits ‘by virtue of influence improperly exerted from [a] position in Congress,” (House Ethics Manual ch. 9) is further heightened because the UAW has contributed substantial PAC money to Rep. Andrews and is one of his top 5 donors since his election to Congress (See Exhibit 4). Moreover, Rep.

Andrews' sham "certification" of the UAW union prior to the formal NLRB certification signals to employees that they could fall out of the Congressman's favor if they do not support the union.

Along with the noted violations of the Ethics Manual Chapter on "Involvement with Official and Unofficial Organizations" Rep. Andrews also appears to have disregarded guidelines from the House Manual's chapter on "Casework Considerations" (House Ethics Manual, ch. 7).

As Chapter 7 notes in its section on "Intervening with Non-Governmental Parties," Members must take particular caution when dealing with parties who are not used to interaction with Members of Congress.

In this instance, rank-and-file employees would naturally view Rep. Andrews' action and communications just as they were intended: "as an official endorsement." Accordingly, they would be likely "to take action in order to please the Member, rather than based on the merits" (*Id.*, "Intervening with Non-Governmental Parties").

Rep. Andrews Aided a Union in Violating Federal Law and Employee Rights

These disturbing circumstances are compounded by the fact that Rep. Andrews effectively impersonated a federal agency, as discussed above, and deceived employees who may be unfamiliar with the intricacies of NLRB certification procedures and who may be unaware that Members of Congress play no role whatsoever in these proceedings.

Rep. Andrews' actions in aiding UAW union officials in committing an Unfair Labor Practice – designed to deprive employees of their right to a fair election to determine if they desire UAW union representation – harm the credibility of the U.S. House of Representatives.

We ask that the U.S. House of Representatives open an investigation into this matter immediately and take appropriate action under House ethics rules. Additionally, if violations of federal law are also discovered, we ask that the matter be referred to the U.S. Department of Justice as well.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Mix".

Mark Mix
President

Exhibit 1

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST LABOR ORGANIZATION
OR ITS AGENTS

DO NOT WRITE IN THIS SPACE

Case

Date Filed

INSTRUCTIONS: File an original and 4 copies of this charge and an additional copy for each organization, each local, and each individual named in Item 1 with the NLRB Regional Director of the region in which the alleged unfair labor practice occurred or is occurring.

1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT

a. Name International Union, United Automobile & Agricultural Implement Workers of America (UAW)

b. Union Representative to contact
Elizabeth Bunn, Secretary Treasurerc. Telephone No.
(313) 926-5000d. Address (street, city, state and ZIP code)
8000 East Jefferson, Detroit, Michigan 48214

e. The above-named organization(s) or its agents has (have) engaged in and is (are) engaging in unfair labor practices within the meaning of section 8(b), subsection(s) (list subsections) (b)(1)(A) of the National Labor Relations Act. and these unfair labor practices are unfair practices affecting commerce within the meaning of the Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

See Attached

3. Name of Employer
Trump Plaza and Hotel4. Telephone No.
(609) 441-60005. Location of plant involved (street, city, state and ZIP code)
The Boardwalk at Mississippi Avenue, Atlantic City, New Jersey 084016. Employer representative to contact
Unknown7. Type of establishment (factory, mine, wholesaler, etc.)
Hotel and Casino8. Identify principal product or
service
Hospitality9. Number of workers employed
thousands10. Full name of party filing charge
Mark Mix, President, National Right to Work Legal Defense Foundation11. Address of party filing charge (street, city, state and ZIP code)
8001 Braddock Road, Suite 600, Springfield, Virginia 2215112. Telephone No.
(703) 321-8510

13. DECLARATION

I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.

By William L. Messenger Attorney
(signature of representative or person making charge) (title or office, if any)
Address National Right to Work Legal Def. Fdtn. (703) 321-8510 03/29/07
Suite 600, 8001 Braddock Rd., Springfield, VA 22161 (telephone No.) (date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

ATTACHMENT TO UNFAIR LABOR PRACTICE CHARGE

Basis of Charge

The NLRB is scheduled to conduct a secret-ballot election on March 31, 2007, to determine whether or not employee dealers at Trump Plaza Hotel and Casino desire UAW representation.

The UAW destroyed the laboratory conditions necessary for a free and fair election, and coerced and restrained employees in the exercise of their § 7 rights, by having, participating in, and acting in concert with U.S. Representative Robert Andrews to “certify” the UAW as the employees’ representative for the purpose of collective bargaining prior to the NLRB election.

On or around March 25, 2007, in a public ceremony that was broadcast on local television and reported through other medium, UAW officials and Representative Andrews conducted a “card count” of UAW authorization cards for the purposes of determining whether the employee dealers wanted UAW representation. At the conclusion of this public ceremony, Representative Andrews publically signed a document entitled “Certification of Majority Status” that states:

CERTIFICATION OF MAJORITY STATUS

We, the undersigned, conducted a confidential examination of Union authorization cards for the purposes of determining whether a majority of full time and regular part-time dealers, dual rate dealers, and dual rate supervisors at Trump Plaza Hotel and Casino have authorized the International Union, UAW (“UAW”) to represent them in collective bargaining.

The verification of the Union’s majority was conducted by means of a comparison of a copy of the original signed cards and a list of current eligible employees in the bargaining unit provided by Trump Plaza Hotel and Casino to the Union **in accordance with NLRB rules.**

The undersigned **certify** that, based on a confidential examination of cards, as described above, **the majority** of Trump Plaza Hotel and Casino full time and regular part-time dealers, dual rate dealers, and dual rate supervisors **have authorized the UAW to represent them for the purpose of collective bargaining.**

(emphasis added).

The UAW, by conducting a “certification” with a federal official shortly before an NLRB election, and by representing to employees that this verification was “in accordance with NLRB rules,” has acted under a false imprimatur of NLRB authority and has deliberately created the false impression that the result of the election is a foregone conclusion, if it is conducted at all. The sham “certification” tends to interfere with the free exercise of employee rights because it suppresses turnout and the chills the right to vote in the NLRB election, induces employees to

vote for the pre-“certified” representative, and disenfranchises employees of their right to vote under laboratory conditions that guarantee employee free choice.

The UAW’s unfair labor practices render it impossible for employees to exercise a free and uncoerced choice in the NLRB election scheduled for Saturday, March 31, 2007. It is expressly requested that this charge block the election scheduled for March 31, 2007, and that an election not be conducted until the taint of the UAW’s unfair labor practice has dissipated. In the alternative, it is requested that the election be conducted, but that the ballots be impounded until after disposition of this unfair labor practice charge.

Exhibit 2



PRINTABLE VERSION

TRUMP PLAZA TO UNIONIZE?

Marshall Northington - 3/25/07 09:55 pm

Last Updated - 3/26/07 03:51 pm

Other Options: [E-mail Story](#) [Print Story](#) [Watch Video](#)

ATLANTIC CITY-Representative Robert Andrews lead a bipartisan 'card check' authorization for Trump Plaza Casino Dealers.

The results of the "card check" showed certification of majority status for forming a Union at Trump Plaza.

This comes on the heels of last weeks similar election at Caesar's Casino, when more than 80 percent voted in favor of forming their own union as part of the U-A-W union.

"It means people are going to speak for themselves instead of being told what to do.

It's a very American right to bind together with their neighbors and speak up for yourself.

And theirs some very courageous dealers at trump that are doing that and I support them."

State senator sonny McCullough, assemblyman Jim Whelan and Reverend Reginald Floyd joined Representative Andrews to sign the "card count" to confirm verification that the dealers want to join the U-A-W Union.

The actual vote will be held this Saturday.

Exhibit 3

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UAW becomes official at Caesars

By MAYA RAO Staff Writer, (609) 272-7221
(Published: March 28, 2007)

The National Labor Relations Board certified the United Auto Workers union to represent Caesars Atlantic City's full- and part-time blackjack dealers, cashiers, and keno and simulcast employees after the casino did not file an objection with the board by the Monday evening deadline.

It is the first time in the city's 29 years of gaming that workers in those classifications will have union representation; previous attempts by other unions failed.

After dealers voted 572-128 on March 17 to be represented by the UAW, the casino alleged that the union had conducted an unfair election and had intimidated workers. Caesars' parent company Harrah's Entertainment Inc. said the following day that it would file an objection to the election results with the NLRB, which would have led to a delay of months, perhaps years, before the two parties made it to the bargaining table.

Parties have a week to file an objection, although in this case that deadline was pushed to Monday because the election occurred over the weekend, said Cara Fies-Keller, acting assistant regional director for the NLRB's Philadelphia office.

"They (Caesars) had never notified us formally that they intended to file objections," Fies-Keller said, adding, "I am aware that in various newspaper articles some spokesperson gave that intent."

After the election, some Caesars dealers, speaking anonymously out of fear of losing their jobs, said the casino's allegations of union intimidation were false.

"We knew our conduct was above reproach ... the workers have spoken and it is time to build a healthy and progressive relationship," UAW Secretary-Treasurer Elizabeth Bunn said.

When the bargaining process will begin is at the discretion of the two parties.

"At this point, we don't have a comment," said Christopher Jonic, a spokesman for Harrah's Entertainment.

The dealers' cry for union representation has attracted a groundswell of support from some New Jersey politicians, both leading up to the Caesars election and in the week since. The political backing of the union and casino workers comes during a year when many legislators, some of whom have a high number of casino employee constituents, will face competitive elections.

Two key supporters, Assemblyman James Whelan, D-Atlantic, and state Sen. James "Sonny" McCullough, R-Atlantic, will compete for McCullough's seat in the 2nd Legislative District.

Much of the lawmakers' support is more broadly tied to support for the Employee Free Choice Act that is awaiting U.S. Senate approval. The act, which is believed to have a solid

chance of passing the Senate but could be vetoed by President Bush, would allow workers to unionize if a certain percentage signed union pledge cards, bypassing the need for a board-supervised election.

In an act that both enforced their support for the proposed law as well as the dealers at Trump Plaza who are scheduled to vote on UAW representation Saturday, U.S. Rep. Robert Andrews, D-1st, McCullough and Whelan held a union pledge card count Sunday night to assert that the "overwhelming majority" of Trump Plaza dealers wished to be unionized.

Legislators also heard testimony from dealers at Caesars, Trump Plaza and the Atlantic City Hilton Casino Resort — the UAW has filed a petition with the NLRB to represent workers there — on why they wanted a union.

Whelan said employees were feeling a growing sense of uncertainty as more casinos rely on part-time workers and lay off staff. He said the presence of a union would change the employee-management relationship, "but it won't harm the economy. Good workers will continue to do a good job, but they will have extra security."

Andrews is a big supporter of workers rights.

"I'm offended by a process where workers feel they have to stick their necks out to bargain collectively," said Andrews, who was among the union bill's co-sponsors in the House. U.S. Reps. Christopher Smith, R-4th, and Frank LoBiondo, R-2nd, and U.S. Sens. Robert Menendez and Frank Lautenberg, both D-N.J., were also among those who co-sponsored the legislation.

McCullough said in a phone interview Tuesday that he wanted to make sure that the casino business "stays healthy financially," but workers he had encountered, particularly over the past year, had mounting concerns over job security.

"I'm somewhat concerned about the direction some of the casinos are taking," McCullough said.

McCullough also attended a UAW rally in Atlantic City five days before the Caesars election, along with state Sen. Nicholas Asselta, R-Cape May, Cumberland, Atlantic.

Lawmakers sent a flurry of letters to casino executives during that period, urging them to honor workers' right to bargain collectively. Asselta was among the most prolific.

The dealers have attracted support from well beyond this area. Last week, state Sen. Ellen Karcher, D-Monmouth, Mercer, issued a statement urging Harrah's Entertainment to "withdraw any appeal that delays" union representation unless the casino could "point to concrete evidence of intimidation" during the election.

"Harrah's must act in good faith, and not use questionable legal tactics to avoid honoring the wishes of their employees," Karcher continued in the statement. "I will work on the Wagering Committee to ensure that, should it come to light that Harrah's is not acting as a good-faith participant in employee negotiations, that the Casino Control Commission use any tools at its disposal to make employees whole."

The UAW is currently working to organize dealers at other Atlantic City properties, although it has declined to specify which ones.

To e-mail Maya Rao at The Press:

MRao@pressofac.com

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Exhibit 4

[Collapse All](#)[1998 CYCLE](#) | [2000 CYCLE](#) | [2002 CYCLE](#) | [2004 CYCLE](#) | [2006 CYCLE](#)opensecrets.org

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POLITICS

Andrews, Robert E (D-NJ)**2005-2006 PAC Contributions: \$675,556**

Based on data released by the FEC on Monday, February 19, 2007.

+ Agribusiness	\$5,000
+ Communic/Electronics	\$22,000
+ Construction	\$23,000
+ Defense	\$42,500
+ Energy/Nat Resource	\$21,000
+ Finance/Insur/RealEst	\$160,882
+ Health	\$77,500
+ Lawyers & Lobbyists	\$44,941
+ Transportation	\$33,000
+ Misc Business	\$35,200
- Labor	\$154,250
+ Building Trade Unions	\$44,000
- Industrial Unions	\$21,500
+ Boilermakers Union	\$2,000
+ Communications Workers of America	\$2,000
+ Intl Brotherhood of Electrical Workers	\$4,500
+ Machinists/Aerospace Workers Union	\$3,000
+ United Auto Workers	\$5,000
+ United Steelworkers of America	\$5,000
+ Transportation Unions	\$35,000
+ Public Sector Unions	\$37,750
+ Misc Unions	\$16,000
+ Ideology/Single-Issue	\$30,285
+ Other	\$25,998

Career Profile

Total Raised
Sector Totals
Top Industries
Top Contributors
Top Zip Codes

Other Data

2005-2006 Profile
2004 Election
2003-2004 Profile
2002 Election
2001-2002 Profile
2000 Election
1999-2000 Profile
1998 Election
1997-98 Profile
1995-96 Profile
1993-94 Profile (pdf file)
Personal Finances
Legislation (off-site)

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ROBERT E. ANDREWS: CAREER PROFILE (SINCE 1989)**Top Contributors**

1	Carpenters & Joiners Union	\$78,400
2	American Assn for Justice	\$76,000
2	Teamsters Union	\$76,000
4	Laborers Union	\$67,900
5	United Auto Workers	\$66,900
6	American Fedn of St/Cnty/Munic Employees	\$60,800
7	United Food & Commercial Workers Union	\$59,650
8	National Assn of Realtors	\$59,400
9	Machinists/Aerospace Workers Union	\$57,900
10	Plumbers/Pipefitters Union	\$57,000
11	American Dental Assn	\$55,999
12	Galaxy Scientific Corp	\$50,200
13	American Medical Assn	\$45,150
14	National Education Assn	\$44,900
15	Intl Brotherhood of Electrical Workers	\$43,100
16	L-3 Communications	\$40,811
17	SLM Corp	\$39,250
18	Sheet Metal Workers Union	\$39,000
19	Blank Rome LLP	\$38,362
20	National Cable & Telecommunications Assn	\$37,609

Percent of Contributions Coded:

(How to read this chart / methodology)



■ Coded	\$6,088,337	(86.9%)
░ Uncoded	\$914,821	(13.1%)
Total	\$7,003,158	

HOW TO READ THIS

CHART: This chart lists the top donors to this member of Congress during the current election cycle. *The organizations themselves did not donate, rather the money came from the organization's PAC, its individual members or employees or owners, and those individuals' immediate families.* Organization totals include subsidiaries and affiliates.

Typically, members of Congress draw their contributions from two main sources: PACs and lobbyists who give because of the member's position on key congressional committees, and local companies, unions and other organizations from their home district. Challengers tend to rely more heavily on home-state donors, since most PACs put most of their dollars behind incumbents.

Why (and How) We Use Donors' Employer/Occupation Information

METHODOLOGY

NOTE: All the numbers on this page are for the 1989-2006 election cycles. Current cycle figures are based on data released electronically by the Federal Election Commission on Monday, February 19, 2007. Help! The numbers don't add up..."

Feel free to distribute or cite this material, but please credit the Center for Responsive Politics.