

**United States Government
National Labor Relations Board
OFFICE OF THE GENERAL COUNSEL**

Advice Memorandum

DATE: February 24, 1997

TO : William C. Schaub, Regional Director
Region 7

FROM : Barry J. Kearney, Associate General Counsel
Division of Advice

SUBJECT: Plumbers Local 335 536-2514
(Crooks Plumbing & Heating, Inc.) 536-2514-0100
Case 7-CB-11164 536-2514-2500

This Section 8(b)(1)(A) and (2)¹ case was submitted for advice as to whether a union may, during an organizing drive, pay unit employees a wage differential² provided the employees sign a membership application, pay the union's initiation fee³ and are sworn in as members.

We conclude that a Section 8(b)(1)(A) complaint should issue, absent settlement. In Flatbush Manor Care Center,⁴ the union violated Section 8(b)(1)(A) by paying money to employees during the pre-election campaign period, claiming that the payments were to supplement salaries or for lunch and carfare. The Board reasoned that because "a large number of employees were given the impression. . .that the supplement to their wages would continue if [the union were] selected . . ." the payments "tended to restrain and coerce the employees from voting against [the union]."

¹ The Region concluded that the Section 8(b)(2) allegation should be dismissed, absent withdrawal, and does not submit this issue for advice.

² The wage differential was the difference between the Union's wage scale and the employees' actual wage rate.

³ The Union also offered the employees a reduced initiation fee, but did not place any time restriction or deadline on this offer. The Region concluded that the offer of the reduced initiation fee did not violate Section 8(b)(1)(A) and did not submit this issue for advice.

⁴ 287 NLRB 457 (1987).

In the instant case, we conclude, under Flatbush Manor Care Center, that the Union violated Section 8(b)(1)(A) of the Act by, during an organizing drive, offering to pay unit employees a wage differential provided the employees sign a membership application, pay the union's initiation fee and are sworn in as members. The Region concluded that the Union did not specify any other requirements for receipt of the wage differential. In particular, the Region found that the Union did not tell the employees that they would have to perform any organizing tasks in order to receive the wage increase. We conclude, therefore, that the Union violated Section 8(b)(1)(A) of the Act by offering a wage differential to employees, during the Union's organizing drive, if the employees became members of the Union.⁵

B.J.K.

⁵ IBEW Local 692 (Hovey Electric), Case 7-CB-9463 (Advice Memorandum dated February 26, 1993) is distinguishable from the instant case. In that case, the Division of Advice concluded that the union's payment of supplemental wages to three employees, in return for their engaging in specific organizing activities at work, while a Board petition was pending, did not violate Section 8(b)(1)(A) of the Act. In contrast, here the Union did not condition the payment of the wage differential on the employees performing any organizing or other tasks on behalf of the Union.