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**International Brotherhood of Electrical Workers,
Local 24 (Mona Electric) and John D. Reechel**
Case 5–CB–10616

January 31, 2011

DECISION AND ORDER

BY MEMBERS BECKER, PEARCE, AND HAYES

On April 7, 2010, Administrative Law Judge Bruce D. Rosenstein issued the attached decision. The Respondent and the General Counsel each filed exceptions and a supporting brief. The General Counsel filed an answering brief.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge’s rulings, findings, and conclusions only to the extent consistent with this decision and to adopt the recommended Order as modified and set forth in full below.¹

This case involves the Respondent Union’s maintenance and enforcement of a policy prohibiting hiring-hall applicants from copying telephone numbers and other information from referral records in order to ascertain whether they have been treated unfairly by the hiring hall. We agree with the judge that the policy is unlawful and that the Respondent violated the Act by enforcing it against Willard Richardson. We reverse the judge and find that the Respondent’s enforcement of the same policy against John D. Reechel also violated the Act.

1. Background

The Union operates an exclusive hiring hall pursuant to its contract with National Electrical Contractors Association (NECA). Job seekers using the hiring hall must first fill out an application for referral. Based on the application, the Union’s referral agent determines which of four out-of-work lists, or “Books,” an applicant is eligible to sign. Qualified journeymen wiremen who, among other requirements, have worked in the trade in the collective-bargaining agreement’s geographical area for at

¹ The General Counsel has excepted to certain language in the judge’s Order and notice. We have substituted a new Order and notice consistent with the violations found.

In addition, we shall modify the judge’s recommended Order to provide for the posting of the notice in accord with *J. Picini Flooring*, 356 NLRB No. 9 (2010). For the reasons stated in his dissenting opinion in *J. Picini Flooring*, Member Hayes would not require electronic distribution of the notice.

least 1 of the past 4 years (the “1 in 4 rule”) are eligible for “Group I.” Thus, these individuals may sign “Book I.” Book II is for those who meet the above requirements except for the 1 in 4 rule.²

The agreement between NECA and the Union establishes an appeals committee for members who believe that they have been treated unfairly by the hiring hall. The committee consists of representatives from the Union, an Employer, or NECA, and a neutral third party.

Since at least 1998, the Union has maintained an unwritten policy that applicants may review, but not copy, telephone numbers from the hiring-hall referral records. The Respondent’s business agent, Gary Griffin, testified that this policy is in place to protect members’ privacy.

2. Allegation involving Willard Richardson

We agree with the judge that, under longstanding precedent, the Respondent violated its duty of fair representation under Section 8(b)(1)(A) of the Act by maintaining the prohibition against recording hiring-hall telephone numbers.³ We also agree that the Respondent unlawfully applied this policy to Willard Richardson in approximately late January 2009, when Richardson went to review hiring-hall records because of his concern that the Respondent was inconsistently applying its eligibility rules.

For the reasons stated below, we find that the Respondent’s various exceptions are without merit.

First, we reject the Respondent’s argument that the complaint should be dismissed because Richardson is not specifically named therein. Complaint paragraph 8 sets forth the allegation that since “at least January 26, 2009, [the Respondent], by oral announcement, has promulgated and, since then, maintained a policy” unlawfully prohibiting hiring-hall applicants from recording telephone numbers from referral records. Richardson was the General Counsel’s witness in support of the allegation. The Respondent prevented him from copying telephone numbers in late January 2009,⁴ the approximate date in the complaint. We thus find that the complaint allegation encompassed Richardson. However, even assuming arguendo that it did not, we find that the allegation is closely connected to the subject matter of the complaint and was fully and fairly litigated.⁵ In this re-

² Groups III and IV are not at issue here.

³ E.g., *Carpenters Local 102 (Millwright Employers Assn.)*, 317 NLRB 1099 (1995) (finding that the respondent-union unlawfully instructed a hiring-hall registrant reviewing hiring-hall records “not to take notes” of other registrants’ phone numbers, where the registrant suspected that the respondent had bypassed him for jobs to which he was entitled).

⁴ Dates are in 2009, unless otherwise noted.

⁵ *Pergament United Sales*, 296 NLRB 333, 334 (1989), enf. 920 F.2d 130 (2d Cir. 1990).

gard, the Respondent cross-examined Richardson at the Board hearing and called the Union's Business Agent Gary Griffin as a witness. Griffin was present when Richardson reviewed hiring-hall records and told Richardson that he could not copy telephone numbers, establishing the violation as alleged.

Second, the Respondent erroneously contends that the allegations here were the subject of charges that the Region previously dismissed. Both Reechel and Richardson previously filed charges alleging that the Respondent improperly prevented them from signing Book I. Their right to copy referral records was not at issue in those charges.

Third, we reject the Respondent's apparent contention that the availability of the appeals committee somehow obviated the applicants' rights to review and copy registrant information from the referral records. The appeals committee was established to resolve issues of unfair treatment at the hiring hall. The instant complaint, in contrast, concerns the lawfulness of the Respondent's policy prohibiting copying of referral records. That issue is appropriate for Board resolution.⁶

3. Allegation concerning John D. Reechel

At all pertinent times, Reechel was a dues-paying member of the Respondent. In January 2004, he formed Sovereign Electric, LLC (herein Sovereign). As owner/president, he signed a letter of assent on February 5, 2004, agreeing to be bound by the agreement between NECA and the Respondent.⁷ In December 2008, due to financial constraints, Sovereign was subject to a forfeiture action.⁸

On March 19, Reechel went to the hiring hall and signed the Book I out-of-work list. Upon reviewing Reechel's application, the Respondent determined that he did not qualify for Group I because he had not established that he met the 1 in 4 rule. On March 30, Business Agent Griffin notified Reechel of the deficiency and told him what documentation he could submit to establish eligibility to sign Book I. Reechel did not provide the documentation. He instead informed the Respondent that he wanted to appeal the decision to prevent him from signing Book I. The Respondent scheduled a hearing before the appeals committee and again informed Re-

echel—this time in writing—of the documentation needed to qualify for Group I.

By letter dated April 16, Reechel requested review of the hiring-hall records. The Respondent scheduled a time for him to do so in late May. In the meantime, Reechel went before the appeals committee on May 5. He did not provide the requested documentation, and the appeals committee therefore rejected his appeal on May 13. On May 21, Reechel inspected the hiring-hall referral records. At that time, Respondent's President Demchuk told him that he could review the referral records, but he could not copy information or take notes. At the Board hearing in this case, Reechel testified that he wanted to inspect the records because he thought that he met the Book I criteria at the time, and he believed that there were "other people living outside the jurisdiction [who] hadn't been working in the trade and are allowed full access to Book I." He testified that he did not tell the Union why he wanted to review the records, but that, as a member, he believed he had a right to review them.

In dismissing this allegation, the judge erroneously determined that Reechel's rights were defined by Reechel's status as a signatory to the NECA contract (as the owner of the forfeited Sovereign), not as a hiring-hall registrant and employee under Section 2(3) of the Act.⁹ Nothing in the record indicates that Reechel's status as owner of the forfeited Sovereign had anything to do with the Respondent's refusal to let him copy information. Rather, Griffin simply applied the Respondent's policy to prohibit Reechel from copying information. Further, the Respondent put Reechel on the Group II list, and in this and other respects treated him as a regular applicant seeking work, not as a former contractor.

Second, contrary to the judge, we find that the General Counsel did establish that the Respondent was aware that Reechel reasonably believed that he was improperly barred from signing referral Book I. As a job applicant, rather than a contractor, Reechel had the same reasons as Richardson to believe that he was being treated unfairly, i.e., that the Respondent allowed other similarly-situated applicants to sign Book I. The Respondent knew that Reechel was concerned that he had been improperly prevented from signing Book I. Thus, on approximately March 30, Griffin told Reechel that he could not sign Book I. Over the following weeks, the Respondent and Reechel had several exchanges about Reechel's placement and Reechel appealed the decision to the appeals

⁶ Finally, the record does not support the Respondent's contention that Richardson (and Reechel) sought the information solely to engage in intraunion political activity.

⁷ Reechel testified that he was Sovereign's sole employee. Although Sovereign sought to hire workers through the hiring hall, no workers were referred to it, apparently because Reechel did not fulfill other requirements to become a signatory.

⁸ After the events at issue here, Reechel notified the Respondent and NECA that he wished to dissolve the letter of assent.

⁹ Under the agreement between NECA and the Respondent, contractors are entitled to view referral records, but the contract does not expressly give signatories a right to copy information. Thus, the judge concluded that the Respondent was not obligated to allow Reechel to copy hiring-hall records.

committee. Reechel inspected the referral records and was prohibited from copying information approximately 1 week after the appeals committee had rejected his appeal. We therefore find that the Respondent was well aware that Reechel's request to review and copy records, like Richardson's, was reasonably directed towards ascertaining whether he had been fairly treated.¹⁰

Accordingly, we reverse the judge and find that the Respondent violated Section 8(b)(1)(A) of the Act by prohibiting Reechel from copying information from its referral records.

ORDER

The National Labor Relations Board orders that the Respondent, International Brotherhood of Electrical Workers, Local 24, Baltimore, Maryland, its officers, agents, and representatives, shall

1. Cease and desist from

(a) Maintaining a policy prohibiting employees who apply for referral from its exclusive hiring hall from recording telephone numbers and other information from referral records.

(b) Arbitrarily denying requests to record telephone numbers and other information contained in referral records from employees who apply for referral from its exclusive hiring hall.

(c) In any like or related manner restraining or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Rescind the policy prohibiting employees who apply for referral from its exclusive hiring hall from recording telephone numbers and other information from referral records.

(b) Honor requests by Willard Richardson and John D. Reechel to record telephone numbers and other information contained in hiring-hall referral records.

(c) Within 14 days after service by the Region, post at its union office and hiring hall copies of the attached notice marked "Appendix."¹¹ Copies of the notice, on forms provided by the Regional Director for Region 5 after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to members or hiring-

hall registrants are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its members or hiring hall registrants by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(d) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. January 31, 2011

Craig Becker, Member

Mark Gaston Pearce, Member

Brian E. Hayes, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD
APPENDIX

NOTICE TO MEMBERS
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain on your behalf with your employer
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities.

WE WILL NOT maintain a policy prohibiting employees who apply for referral from our exclusive hiring hall from recording telephone numbers and other information from referral records.

WE WILL NOT arbitrarily deny requests to record telephone numbers and other information contained in our referral records from employees who apply for referral from our exclusive hiring hall.

¹⁰ *NLRB v. Carpenters Local 608*, 811 F.2d 149, 152 (2d Cir. 1987), *enfg.* 279 NLRB 747 (1986), *cert. denied* 484 U.S. 817 (1987).

¹¹ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

WE WILL NOT in any like or related manner restrain or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL honor Willard Richardson's and John D. Reechel's requests to record telephone numbers and other information contained in our hiring-hall referral records.

WE WILL rescind our policy of prohibiting applicants who are registered for referral from our exclusive hiring hall from recording telephone numbers and other information from referral records.

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL 24 (MONA
ELECTRICAL)

Johnda Bentley, Esq. and *Thomas J. Murphy, Esq.*, for the General Counsel.

John M. Singleton, Esq., of Owings Mills, Maryland, for the Respondent-Union.

Clark D. Browne, of Greenbelt, Maryland, for the Charging Party.

DECISION

STATEMENT OF THE CASE

BRUCE D. ROSENSTEIN, Administrative Law Judge. This case was tried before me on February 1 and 2, 2010, in Baltimore, MD, pursuant to a Complaint and Notice of Hearing (the complaint) issued on October 30, 2009,¹ by the Regional Director for Region 5 of the National Labor Relations Board (the Board). The complaint, based upon a charge filed on July 2, by John D. Reechel (the Charging Party or Reechel), alleges that International Brotherhood of Electrical Workers, Local 24 (the Respondent or Union), has engaged in certain violations of Section 8(b)(1)(A) of the National Labor Relations Act (the Act). The Respondent filed a timely answer to the complaint denying that it had committed any violations of the Act.

ISSUES

The complaint alleges that the Respondent violated Section 8(b)(1)(A) of the Act by maintaining a policy and informing applicants and members that they were prohibited from recording telephone numbers or any other information from the referral records related to its operation of an exclusive hiring hall.

On the entire record, including my observation of the demeanor of the witnesses, and after considering the briefs filed by the General Counsel and the Respondent, I make the following

FINDINGS OF FACT

I. JURISDICTION

Mona Electric Group, Inc. (the Employer), is a Maryland Corporation with an office and place of business located in Clinton, Maryland, and is engaged in the business of providing

¹ All dates are in 2009, unless otherwise indicated.

electrical services. During the preceding twelve months, a representative period, the Employer has performed services in excess of \$50,000 in states other than the State of Maryland, including the District of Columbia. The Respondent admits and I find that the Employer is engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

A. Background

At all material times, the Employer has been a member of the Baltimore Division, Maryland Chapter, National Electrical Contractors Association, (NECA) that is composed of various employers engaged in the electrical contracting industry, one purpose of which is to represent its employer-members in negotiating and administering collective-bargaining agreements with the Respondent. On or about June 1, 2008, the Respondent entered into a collective-bargaining agreement with NECA that is effective until May 31, 2011. Since at least June 1, 2008, the Employer who is engaged in the building and construction industry, granted recognition to the Respondent as the exclusive collective-bargaining representative of the Unit and, since that date, the Respondent has been recognized as such representative by the Employer without regard to whether the majority status of Respondent had ever been established under the provisions of Section 9(a) of the Act. Since at least June 1, 2008, the Respondent and NECA have entered into and, since that date, have maintained a collective-bargaining agreement requiring, inter alia, that the Union be the sole and exclusive source of referrals of employees to work as electricians in the following classifications: general foreman, foreman, sub-foreman, journeyman and apprentice (GC Exh. 2—Section 4.02).

At all material times, Gary Griffin has served as the Business Manager of the Respondent while Peter Demchuk holds the position of President.

B. The 8(b)(1)(A) Allegations

The General Counsel alleges in paragraphs 8 and 9(c) of the complaint that the Respondent has orally promulgated a policy and informed applicants and members that they are not permitted to review and record telephone numbers or any other information from the referral records related to the operation of its exclusive hiring hall.

The Hiring Hall Rules (GC Exh. 3)

No applicant for employment shall be registered unless he appears at the hiring hall in person and requests to sign the respective out of work book. (Groups I, II, III, IV)² This may

² Group I consists of all applicants for employment who have four (4) or more years experience in the trade, are residents of the geographical area constituting the normal construction labor market, have passed a Journeyman Wireman's examination given by a duly constituted inside Construction Local Union of the IBEW, or have been certified as a Journeyman Wireman by any inside Joint Apprenticeship and Training Committee, and, who have been employed in the trade for a period of at least one year in the last four years in the geographical area covered by the collective bargaining agreement. Group II covers all

be done Monday through Friday, 8 a.m.–5 p.m. (except holidays).

Upon requesting to register on the out-of-work list,³ all applicants shall complete an application for referral. All persons registered on the out-of-work list shall re-sign within 30 days of each registration and/or re-sign date. Re-signs may take place by signing the appropriate out-of-work list in person, by mail, e-mail or by fax.

Manpower calls for the following day will be posted on a job hotline and available for review after 6:00 p.m. Applicants seeking any available job must register on a daily sheet (Day Book) that is only available Monday–Friday, from 8 a.m.–8:45 a.m. (sharp).

Referrals will then be processed in the manner of the lowest number on the out-of-work list to the highest number on the out-of-work list for those who have signed the Day Book. Job call starts will commence immediately after the Day Book sign-up is complete.

Facts

The Charging Party is a journeyman wireman with over 20 years experience in the trade and is a dues-paying member of the Respondent. In January 2004, the Charging Party formed Sovereign Electric, LLC. In his capacity as Owner/President, he signed on February 5, 2004, a Letter of Assent with NECA and the Respondent (GC Exh. 4). By the execution of that agreement the Charging Party agreed to be bound by all of the provisions contained in the current and subsequent labor agreements between NECA and the Respondent. The terms of the Letter of Assent establish that it shall remain in effect until terminated by the Charging Party by giving written notice to NECA and the Respondent at least one hundred fifty (150) days prior to the then current anniversary date of the applicable approved labor agreement.

The Charging Party, due to financial constraints, suffered the forfeiture of the Sovereign Electric, LLC Charter in December 2008 (GC Exh. 20). By letters dated October 20, and January 18, 2010, the Charging Party notified the Respondent and NECA that he would like to dissolve the Letter of Assent immediately (GC Exh. 10 and 19).

The Charging Party, on March 19, signed the out-of-work list for Group I.⁴ In reviewing his March 27 referral applica-

applicants for employment who have four or more years' experience in the trade and who have passed a Journeyman Wireman's examination given by a duly constituted Inside Construction Local Union of the IBEW, or have been certified as a Journeyman Wireman by an Inside Joint Apprenticeship Training Committee. Group III includes all applicants for employment who have two (2) or more years' experience in the trade, are residents of the geographical area constituting the normal construction labor market, and who have been employed for at least six (6) months in the last three (3) years in the geographical area covered by the collective bargaining agreement. Group IV consists of all applicants for employment who have worked at the trade for more than one year.

³ The out-of-work list consists of the applicants name, card number, and telephone number.

⁴ Once an individual is registered on the out-of-work list, any employer needing manpower sends a form into the union hall, and those jobs are listed on the telephone hotline at night so every unemployed

member can hear what jobs are available. Signing the out-of-work list establishes your place in line. Signing the daybook let's the referral agent know exactly who is in the union hall that day so the individual can be placed in order and referred for work when jobs are available.

tion, the Respondent determined that the Charging Party did not qualify for Group I status because he did not submit sufficient documentation to conclusively establish that he was employed in the trade for a period of at least one year in the last four years in the geographic area covered by the collective-bargaining agreement between NECA and the Respondent. The Respondent notified the Charging Party of this deficiency and in a telephone conversation between the Charging Party and Griffin on March 30, Reechel was informed that he must provide documentation to establish his qualifications for Group I. The Charging Party signed the out-of-work list for Group I a second time on April 20 but did not do so in May 2009. Accordingly, he was dropped from the out-of-work list because he exceeded the 30 day re-sign period.

By letter dated April 5, the Charging Party requested a hearing before the referral appeals committee under article IV of the collective-bargaining agreement between NECA and the Respondent (GC Exh. 12).

By letter dated April 9, the Respondent informed the Charging Party that he must provide verifiable proof of employment in the trade for one of the last four years in Respondent's geographic jurisdiction. Additionally, the Respondent informed the Charging Party that examples of such proof could be W-2's, paycheck stubs, or tax returns (GC Exh. 5).

By letter dated April 16, the Charging Party informed the Respondent that he would like to inspect the referral records for the hiring hall (GC Exh. 15).

By letter dated April 21, the appeals committee acknowledged receipt of the Charging Party's complaint regarding not being allowed to sign the Group I referral book. The committee scheduled a hearing date of May 6 to address the complaint (GC Exh. 13).

By letter dated May 5, the Respondent requested the Charging Party to provide specifics regarding which referral records and dates he was looking for (GC Exh. 16).

By letter dated May 10, the Charging Party informed the Respondent that he wanted to review books I, II, and III from February 1, 2005–May 10, 2009 (GC Exh. 17).

By letter dated May 13, the Respondent reserved May 21 for the Charging Party to review the referral records (GC Exh. 18).

By letter dated May 13, the appeals committee informed the Charging Party that due to a lack of evidence and his inability to establish that he met the requirements to sign referral book I, it had no option but to affirm the business managers prior ruling (GC Exh.14).⁵

The Charging Party, on May 21, appeared at the Respondent's hiring hall to inspect books I, II, and III. Demchuk informed the Charging Party that while he could review the records no notes or any other information could be copied from the referral books.

member can hear what jobs are available. Signing the out-of-work list establishes your place in line. Signing the daybook let's the referral agent know exactly who is in the union hall that day so the individual can be placed in order and referred for work when jobs are available.

⁵ The Charging Party filed an unfair labor practice charge on June 11 in Case 5–CB–10598 raising the same allegations. After investigation, Region 5 dismissed the charge on September 16 (R Exh. 2).

On or about January 12, former Union President Willard Richardson sent a letter to the Respondent asserting that he had reason to believe that the referral procedures had been administered in a disparate fashion regarding his placement and eligibility for group I (GC Exh. 23). In this regard, he believed that there were other individuals similar to him that had not worked in the geographic jurisdiction of the Union for a period of at least 1 year in the last 4 years yet were still permitted to be placed on the book I out-of-work list. Richardson requested permission to examine the referral records including the out-of-work list, registers and applications of applicants, referral slips issued and any other logs or registers of dispatches made from January 1, 1999 to January 11. Richardson further informed the Respondent that at the time of his examination of the documents, he may request copies of pertinent records.

In late January 2009, Richardson went to the hiring hall and was permitted to review the hiring hall records. Both Griffin and Demchuk were present during the review process. While Richardson was permitted to copy information from the out-of-work list including dates and names, he was informed by Griffin that he could not copy or record telephone numbers of those individuals on the out-of-work list. Richardson returned to the hiring hall twice in February 2009 and once in July 2009 to continue reviewing the referral records but did not attempt to record telephone numbers based on the prior admonition from Griffin.

In early February 2009, Richardson filed an appeal with the Appeals Committee regarding the administration of the referral procedures by the Respondent. The Appeals committee scheduled a hearing to take place at the Respondent's hiring hall on February 25 (GC Exh. 21).

On March 2, the Appeals Committee issued its decision concerning the complaint that Richardson had filed. It found the three allegations that Richardson alleged regarding violations of the referral procedures could not be substantiated (GC Exh. 22).⁶

Richardson testified that the Respondent, during political campaigns for local and Presidential elections, has made available the telephone numbers of members to canvass them for political reasons. The Respondent did not rebut this testimony.

Griffin testified that around 1998, and continuing since he became Business Manager in July 2007, the Respondent maintained a policy prohibiting applicants or members from copying telephone numbers from the referral records. This policy/practice is unwritten and has never been memorialized as part of its hiring hall rules (GC Exh. 3). Griffin admitted that telephone numbers of members who are sick are released if a fellow Union member contacts the hiring hall and specifically requests a sick member's telephone number. Griffin also acknowledged that while Union members are reviewing the hiring hall records, there is nothing preventing them from seeing the telephone numbers of other applicants and it is possible that they could memorialize them at a later time. Lastly, Griffin

noted that during his tenure as Business Manager, only the Charging Party and Richardson have asked to review the hiring hall records and record telephone numbers of individuals on the out-of-work list. He also testified that during his tenure, approximately ten Union members out of a membership of 2300 have complained about the release of their telephone numbers.

Discussion

A union's duty of fair representation includes an obligation to provide access to job referral lists to allow an individual to determine whether his referral rights are being protected. *Operating Engineers Local 324*, 226 NLRB 587 (1976); *Boilermakers Local 197*, 318 NLRB 205 (1995). Thus, a union violates Section 8(b)(1)(A) when it arbitrarily denies a member's request for job referral information, when that request is reasonably directed towards ascertaining whether the member has been fairly treated with respect to obtaining job referrals. *NLRB v. Carpenters Local 608*, 811 F.2d 149, 152 (2d Cir. 1987), enfg. 279 NLRB 747 (1986). When a member seeks photocopies of hiring hall information because he reasonably believes he has been treated unfairly by the hiring hall, the union acts arbitrarily by denying the requested photocopies, unless the union can show the refusal is necessary to vindicate legitimate union interests. *Carpenters Local 608*, supra, at 755-757. See also *Carpenters Local 35 (Construction Employers Assn.)*, 317 NLRB 18 (1995).

In paragraph 8 of the complaint, the General Counsel alleges that the Respondent prohibited applicants from recording telephone numbers from the referral hall records.

Griffin admitted in his testimony that since at least 1998, the Respondent has maintained an unwritten rule that members or applicants are precluded from recording telephone numbers from the hiring hall records. This practice was in effect when Richardson was permitted to review the hiring hall records in January, February, and July of 2009, but was told he could not record any telephone numbers from those records.

The evidence conclusively establishes that Richardson informed the Respondent that he believed the hiring hall referral rules have been improperly administered and have negatively impacted his ability to be referred for available work opportunities (GC Exh. 23).

The Respondent's arguments that objections from its membership to the release of their telephone numbers from the hiring hall records because of privacy concerns is rejected for the following reasons. First, the Respondent has no prohibition against applicants and members reviewing the hiring hall records including the out-of-work list that contains the name of the member, card number, and telephone number. Second, the Respondent during political campaigns for local and Presidential elections has made available the telephone numbers of members to canvass them for political reasons. Third, if a member requests the telephone number of a sick coworker to offer get-will wishes, the Respondent will provide the member with the telephone number. Fourth, since at least July 2007, only approximately 10 Union members out of a total membership of 2300 have objected to the release of their telephone numbers.

⁶ Richardson filed an unfair labor practice charge in Case 5-CB-10557 raising the same allegations. After investigation, Region 5 dismissed the charge and on appeal the General Counsel, on August 25, sustained the dismissal (R Exh. 1).

Under these circumstances, and in agreement with the General Counsel, when as here a member seeks to photocopy or record telephone numbers from the hiring hall records because he or she reasonably believes they have been treated unfairly, the Union acts arbitrarily by denying the requested information. Accordingly, I find that by denying Richardson the right to photocopy or record telephone numbers from the out-of-work list, the Respondent has violated Section 8(b)(1)(A) of the Act. *Carpenters Local 102 (Millwright Employers Assn.)*, 317 NLRB 1099 (1995) (Prohibiting the copying of phone numbers from hiring hall records violates Section 8(b)(1)(A) of the Act).

In paragraph 9 of the complaint, the General Counsel alleges that the Respondent was aware that the Charging Party reasonably believed he was improperly barred from signing the book for referral, from group I, out of the referral hall and that around May 21, Demchuk told the Charging Party that he could not record any information from the referral hall records.

The evidence establishes that the Charging Party filed on June 11, an unfair labor practice charge against the Respondent in Case 5-CB-10598 (R Exh. 2). In dismissing the unfair labor practice charge on September 16, Region 5 noted that the Charging Party indicated that he was employed by his own company, Sovereign Electric, LLC, both in the trade and in the geographical area covered by the collective-bargaining agreement, and entered into a Letter of Assent with the Respondent in 2004 (GC Exh. 4). The Letter of Assent states, inter alia, that Sovereign Electric, LLC agrees to be bound by the provisions of the labor agreement between the Respondent and NECA.

Reference to the collective-bargaining agreement (GC Exh. 2) shows that Section 4.18 provides that "A representative of the Employer or the Association, as the case may be, designated to the Union in writing, shall be permitted to inspect the Referral Procedure records at any time during normal business hours." The record confirms, and the Charging Party admits, that during 2009 the Letter of Assent that he previously executed as the owner of Sovereign Electric, LLC was in full force and effect.⁷ Thus, by permitting the Charging Party to review the hiring hall records including the out-of-work list on May 21, the Respondent fully complied with the requirements of the collective-bargaining agreement. Under those circumstances, there was no requirement to permit the Charging Party to record any information from the hiring hall records including telephone numbers. Additionally, I find that the General Counsel did not conclusively establish that the Respondent was aware that the Charging Party reasonably believed he was improperly barred from signing the book for referral, from group I, out of the referral hall. In any event, due to the Charging Party's status as an Employer, the Respondent fully complied with its obligations under the collective-bargaining agreement.⁸

⁷ The Charging Party did not attempt to dissolve the Letter of Assent until October 20 with the Respondent and January 18, 2010 with NECA. The Letter of Assent provides, however, that it can not be terminated until after the expiration of the current collective bargaining agreement which in this case remains in effect until May 31, 2011.

⁸ In its posthearing brief, the General Counsel recognizes that if Rechel is an Employer and not an employee under the Act at the time he requested to review the referral records, the Act would not be violated.

Under these circumstances, I find that the Respondent did not violate paragraph 9 of the complaint or Section 8(b)(1)(A) of the Act.

CONCLUSIONS OF LAW

1. The Employer is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. The Union is a labor organization within the meaning of Section 2(5) of the Act.

3. The Respondent violated Section 8(b)(1)(A) of the Act when it maintained a policy that prohibited applicants and members from recording telephone numbers from the referral hall records related to the operation of its exclusive hiring hall.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, I find that it must be ordered to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended⁹

ORDER

The Respondent, International Brotherhood of Electrical Workers, Local 24, Clinton, Maryland, its officers, agents, and representatives, shall

1. Cease and desist from

(a) Denying requests for photocopies or to record telephone numbers contained in referral records from employees who are registered for referral from its exclusive hiring hall and who reasonably believe they have been improperly denied referrals.

(b) In any like or related manner restraining or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Honor Willard Richardson's request for photocopies or to record telephone numbers contained in our referral records.

(b) Within 14 days after service by the Region, post at its union office and hiring hall copies of the attached notice marked "Appendix."¹⁰ Copies of the notice, on forms provided by the Regional Director for Region 5 after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to members are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the

⁹ If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

¹⁰ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since January 26, 2009.

(c) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

(d) IT IS FURTHER ORDERED that the complaint is dismissed insofar as it alleges violations of the Act not specifically found.

Dated, Washington, D.C. April 7, 2010

APPENDIX

NOTICE TO MEMBERS
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT arbitrarily deny requests for photocopies or to record telephone numbers contained in our referral records from employees who are registered for referral from our exclusive hiring hall and who reasonably believe they have been improperly denied referrals.

WE WILL NOT maintain a policy prohibiting applicants who are registered for referral from our exclusive hiring hall and who reasonably believe they have been improperly denied referral from recording telephone numbers from referral records.

WE WILL NOT in any like or related manner restrain or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL honor Willard Richardson's request for photocopies or to record telephone numbers contained in our referral records.

WE WILL rescind our policy of prohibiting applicants who are registered for referral from our exclusive hiring hall and who reasonably believe they have been improperly denied referral from recording telephone numbers from referral records.

INTERNATIONAL BROTHERHOOD OF ELECTRICAL
WORKERS, LOCAL 24 (MONA ELECTRIC)