

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD**

VOLKSWAGEN GROUP OF AMERICA, INC.
(Employer),

and

INTERNATIONAL UNION, UNITED
AUTOMOBILE, AEROSPACE &
AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA (UAW)
(Union),

Case No. 10-RM-121704

and

MICHAEL BURTON *et alia*,
(Employee-Intervenors).

**EMPLOYEE-INTERVENORS' RESPONSE AND OPPOSITION
TO UAW'S "ADDITIONAL SUBMISSION" IN SUPPORT OF ITS
REQUEST FOR SPECIAL PERMISSION TO APPEAL**

Volkswagen employees Michael Burton, Michael Jarvis, David Reed, Thomas Haney and Daniele Lenarduzzi ("Employee-Intervenors") hereby respond to and oppose the UAW's "Additional Submission" in Support of its Request for Special Permission to Appeal Region 10's Order Granting the Motion to Intervene, filed on April 1, 2014. The Employee-Intervenors also oppose any further stays or delays in the hearing of this case, which is set for April 21, 2014, and has already been postponed once.

The UAW files what it characterizes as "new evidence" that "closes a loop regarding the involvement of the National Right to Work Legal Defense Foundation ("NRTW") in the coordinated campaign that is the subject of the UAW's objections."

(UAW Additional Submission at 3). The UAW's ostensible "evidence" is both false and irrelevant even if accurate (which it is not).

1. The UAW's "new evidence" regarding NRTW is a declaration by one of its operatives, Sandra Haasis. In her declaration, Ms. Haasis swears under penalty of perjury that she overheard a phone conversation by one of the Employee-Intervenors' counsel, NRTW Staff Attorney Glenn Taubman, regarding the campaign occurring at the Volkswagen facility. Ms. Haasis attests that this conversation occurred at the Atlanta airport, at about noon on Sunday, February 2, 2014, while she and Mr. Taubman were purportedly sitting next to each other awaiting a flight to Chattanooga.

The problem with Ms. Haasis' sworn declaration is that Glenn Taubman was not in the Atlanta airport on February 2. (Taubman Decl., ¶ 7). He was at his residence in Fairfax, Virginia, as his cell phone records prove. (*Id.*). In fact, he has not been in Atlanta since August 2, 2013, and has *never* been to or flown to Chattanooga, Tennessee. (*Id.*). The phone conversation that Ms. Haasis swears Mr. Taubman conducted never occurred.¹

Ms. Haasis' declaration is at best false, and at worst knowingly fraudulent. The UAW and she owe a public apology to Mr. Taubman and NRTW. Moreover, the Board should refer this matter to the Department of Justice to consider prosecution for the filing of false statements under oath.

¹ It is also noteworthy that NRTW is not mentioned in the e-mail chain that the UAW submits in its Additional Submission, nor are any of NRTW's employees or staff attorneys mentioned in or copied on any of the messages in that chain.

That the UAW resorted to filing a false declaration that could be so easily disproved to attempt to show the existence of a grand and secret conspiracy being waged against it smacks of the desperation and paranoia increasingly gripping the union following its rejection by Volkswagen employees in the election. The Board must now be wary, and treat with the utmost suspicion, any other ostensible “evidence” the UAW submits.

2. The UAW’s false allegations against NRTW are also irrelevant to this case for several reasons. *First*, NRTW has not sought to intervene in this case, and is neither a party nor participant in the case. The Intervenors are five flesh-and-blood Volkswagen employees—Michael Burton, Michael Jarvis, David Reed, Thomas Haney and Daniele Lenarduzzi—each of whom is exercising their Section 7 right to oppose the UAW. NRTW is simply providing legal counsel to these individuals to assist them in exercising their legal rights as “employees” under the NLRA.²

Second, the UAW’s Objections to the Election neither mention NRTW nor make any allegations about its conduct (for the obvious reason that NRTW was not involved in any action alleged to be objectionable). Similarly, the Regional Director’s Revised Report on Objections and Order Directing Hearing neither mentions NRTW nor makes any

² As the UAW well knows from years of futile litigation efforts, NRTW is a charitable, bona fide, IRS-approved, legal aid organization engaged in legitimate legal aid work. *United Auto Workers v. Nat’l Right To Work Legal Def. Found., Inc.*, 584 F. Supp. 1219, 1223-24 (D.D.C. 1984), *aff’d*, 781 F.2d 928, 934-35 (D.C. Cir. 1986); *see also National Right to Work Legal Def. & Educ. Found., Inc. v. United States*, 487 F. Supp. 801, 808 (E.D.N.C. 1979).

allegations about it. NRTW's conduct is simply not at issue in this case.

Third, and more generally, whether any organization campaigned against the UAW in the February 12-14 election is immaterial because that is not grounds for overturning the election. The UAW's case proceeds from the misguided premise that it is objectionable if any entity campaigned or spoke against the union in the election. While this belief may reflect how elections are conducted in Venezuela or North Korea, it does not reflect how elections are conducted in this free nation. The Supreme Court has repeatedly "characterized th[e] policy judgment, which suffuses the NLRA as a whole, as 'favoring uninhibited, robust, and wide-open debate in labor disputes,' stressing that 'freewheeling use of the written and spoken word . . . has been expressly fostered by Congress and approved by the NLRB.'" *Chamber of Commerce v. Brown*, 554 U.S. 60, 67-68 (2008) (quoting *Letter Carriers v. Austin*, 418 U.S. 264, 272-73 (1974)). Specifically, Section 7 "calls attention to the right of employees to refuse to join unions, which implies an underlying right *to receive information opposing unionization*." *Id.* at 68 (emphasis added).

Finally, it is critical to recall why the Employee-Intervenors must be permitted to participate in these proceedings—to hold the UAW to its burden of proof, cross-examine its witnesses, and ensure that someone represents the interests of the majority of employees who voted against the UAW. Volkswagen is contractually obligated *not* to

oppose the UAW's objections,³ and intends to abide by that obligation, as the Regional Director's Revised Report on Objections flatly states. (*See* Revised Report at 2 n.3, recognizing that "[Volkswagen will] take[] no position regarding the merits of the [UAW's] objections."). Without the Employee-Intervenors, the hearing and other proceedings in this case will be a one-sided farce, with no party opposing the UAW's factual claims, offering rebuttal evidence, or otherwise defending the election results. It would be akin to allowing only a plaintiff to present its case, while permitting no defense for the defendant (which here is the election results). With no one to defend the election results, the hearing scheduled for April 21 would be a cruel joke played on the 712 employees who voted against the UAW in the election, and would be an embarrassment for this Agency. The UAW's desire to silence any opposition to it in this case must be rejected.

CONCLUSION

The UAW's Request for Special Permission to Appeal should be summarily denied. Its "Additional Submission" should be disregarded as false or knowingly fraudulent, and the Board should refer the declaration of Ms. Haasis to the Department of Justice.

³ The UAW-Volkswagen Neutrality Agreement was filed as Ex. A to the Employee-Intervenors' Motion to Intervene, and is also reproduced as Exhibit B to the UAW's Request for Special Permission to Appeal, and can be found at pages 70-118 of the UAW's pdf document.

Respectfully submitted,

/s/ Glenn M. Taubman

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CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing Employee-Intervenors' Response and the attachment were served on the NLRB Executive Secretary and NLRB Region 10 via NLRB e-filing, and via e-mail to:

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this 3rd day of April, 2014.

/s/ Glenn M. Taubman

Glenn M. Taubman

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DECLARATION OF GLENN M. TAUBMAN

Glenn M. Taubman, pursuant to 28 U.S.C. § 1746, declares:

1. I submit this Declaration in response to the Declaration of Sandra Haasis, filed by the UAW with the Board on April 1, 2014.
2. The facts stated in my Declaration are within my personal knowledge. I am one of the co-counsel in this case representing the Employee-Intervenors Michael Burton, Michael Jarvis, David Reed, Thomas Haney and Daniele Lenarduzzi.
3. I received a B.A. degree in political science from the State University of New York at Stony Brook in 1977. I am an honors graduate of the Emory University School of Law in Atlanta, Georgia. (J.D. with Distinction received in June 1980). Additionally, I am a graduate of the Masters of Law program (specializing in labor law)

of the Georgetown University Law Center, Washington, D.C. (LL.M, Labor Law 1985).

4. Upon graduation from Emory University School of Law in 1980, I was employed as a Staff Attorney to the judges of the United States District Court for the Middle District of Florida in Jacksonville, Florida (1980-1981). In 1981, I was appointed law clerk to the Hon. Warren L. Jones, Senior Circuit Judge, United States Court of Appeals for the Eleventh Circuit, in Jacksonville, Florida (1981-1982).

After my clerkship with Judge Jones, I accepted employment as a staff attorney with the National Right to Work Legal Defense Foundation (“NRTW”), Springfield, Virginia, where I remain employed (1982-present). I reside in Fairfax, Virginia.

NRTW, a charitable, tax-exempt legal aid organization under § 501(c)(3) of the Internal Revenue Code, provides free legal assistance to employees who are victimized by the abuses of compulsory union arrangements.

5. As an NRTW staff attorney, I have practiced before the Board for over thirty (30) years. A small sampling of the cases I have litigated under the National Labor Relations Act include *NLRB v. Office & Professional Employees International Union, Local 2*, 292 NLRB 1175 (1988), *enforced*, 902 F.2d 1164 (4th Cir. 1990); *Production Workers Union of Chicago Local 707 (Mavo Leasing)*, 322 NLRB 35 (1996), *enforced*, 161 F.3d 1047 (7th Cir. 1998); *Penrod v. NLRB*, 203 F.3d 41 (D.C. Cir. 2000); *Dana Corp.*, 351 NLRB 434 (2007); *Bloom v. NLRB*, 153 F.3d 844 (8th Cir. 1998), *judgment vacated sub nom. Office & Professional Employees International Union, Local 12 v.*

Bloom, 525 U.S. 1133 (1999); and *United Food & Commercial Workers Local 951 v. Mulder*, 31 F.3d 365 (6th Cir. 1994). In addition to these cases, I have been lead counsel in dozens of other reported cases throughout the nation, in state courts, federal courts, state labor boards and the NLRB.

6. I am admitted to practice law in the following territorial jurisdictions and courts: Georgia (1980); New York (1981); District of Columbia (1985); United States Supreme Court (1983); and the U.S. Courts of Appeals for the Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Eleventh and District of Columbia Circuits.

7. I have reviewed the Declaration of Sandra Haasis, filed by the UAW with the Board on April 1, 2014. Contrary to the assertions to which she swears under penalty of perjury, I was not in Atlanta, Georgia, or at its airport on February 2, 2014. I have checked my work and personal calendars and state with certainty that the last time I was in Atlanta was August 2, 2013. I have not been in Atlanta since. Moreover, I have never been to Chattanooga, Tennessee, nor have I ever flown there from Atlanta or anywhere else.

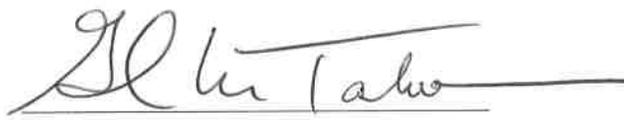
Attached hereto and made a part hereof is a true and correct copy of a portion of my Verizon Wireless cell phone statement (with most personal information redacted). This is the only cell phone that I own or use; no one else uses it; and it is kept with me at all times. The Verizon Wireless statement shows that on February 2, 2014, at around noon (the very time Ms. Haasis asserts she overheard a cell phone call of mine from the Atlanta

airport), I made three cell phone calls all originating in Fairfax, Virginia, where I reside.

8. I declare with certainty that I did not have the conversation that Ms. Haasis ascribes to me. I have no knowledge of that conversation, who may have participated in it, or if that alleged conversation ever happened at all. I also declare with certainty, as an officer of many federal courts and as a long-time practitioner before this Board, that I had no such conversation on February 2, 2014, or at any other time, as described by Ms. Haasis.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: April 3, 2014


Glenn M. Taubman

Detail for [REDACTED] Taubman: 703-[REDACTED]-2609

Usage, continued

Date	Time	Number	Rate	Usage Type	Origin	Destination	Min.	Airtime Charges	Long Dist/ Other Chgs	Total
1/17	10:16A	[REDACTED]	Peak	PlanAll w	Springfield VA	Scottsdale AZ	7	---	---	---
1/17	5:52P	[REDACTED]	Peak	PlanAll w	Springfield VA	Fairfax VA	4	---	---	---
1/17	5:55P	[REDACTED]	Peak	PlanAll w	Annandale VA	Scottsdale AZ	10	---	---	---
1/17	10:03P	[REDACTED]	Off-Peak	N&W	Annandale VA	Incoming CL	10	---	---	---
1/18	3:57P	[REDACTED]	Off-Peak	N&W	Annandale VA	Incoming CL	33	---	---	---
1/19	11:22A	[REDACTED]	Off-Peak	N&W	Annandale VA	Fis Church VA	22	---	---	---
1/19	11:48A	[REDACTED]	Off-Peak	N&W	Annandale VA	Fis Church VA	2	---	---	---
1/20	4:01P	[REDACTED]	Peak	M2Mail w	Annandale VA	Incoming CL	47	---	---	---
1/21	4:15P	[REDACTED]	Peak	PlanAll w	Annandale VA	Incoming CL	1	---	---	---
1/21	4:17P	[REDACTED]	Peak	PlanAll w	Annandale VA	Incoming CL	1	---	---	---
1/24	8:07A	[REDACTED]	Peak	PlanAll w	Fairfax VA	Fairfax VA	3	---	---	---
1/25	5:18P	[REDACTED]	Off-Peak	N&W	Annandale VA	Incoming CL	10	---	---	---
1/25	5:48P	[REDACTED]	Off-Peak	N&W	Annandale VA	Incoming CL	35	---	---	---
1/28	10:34A	[REDACTED]	Peak	PlanAll w	Springfield VA	Incoming CL	1	---	---	---
1/28	7:26P	[REDACTED]	Peak	M2Mail w	Annandale VA	Incoming CL	20	---	---	---
2/02	11:55A	703-[REDACTED]-1261	Off-Peak	N&W	Fairfax VA	Fairfax VA	2	---	---	---
2/02	1:10P	703-[REDACTED]-1261	Off-Peak	N&W	Fairfax VA	Fairfax VA	2	---	---	---
2/02	1:12P	480-[REDACTED]-0206	Off-Peak	N&W	Fairfax VA	Scottsdale AZ	1	---	---	---
2/03	5:36P	[REDACTED]	Peak	PlanAll w	Springfield VA	Fairfax VA	2	---	---	---
2/05	8:27A	[REDACTED]	Peak	PlanAll w	Fairfax VA	Fairfax VA	2	---	---	---
2/06	5:48P	[REDACTED]	Peak	PlanAll w	Springfield VA	Fairfax VA	1	---	---	---
2/07	5:38P	[REDACTED]	Peak	PlanAll w,CallVM	Annandale VA	White Mall CL	1	---	---	---