

**HR Weekly Podcast**  
**08/20/2014**

Today is August 20, 2014, and welcome to the HR weekly podcast from the State Human Resources Division. Today's topic concerns how the National Labor Relations Board, or the NLRB, addressed a dispute involving a union and a South Carolina employer.

The IPG company is a tape manufacturer in South Carolina that employs approximately 320 employees. The United Steelworkers filed a petition on March 16, 2012, to represent the company's maintenance and production employees. Subsequently the NLRB held a secret ballot election at the plant on April 26-27, 2012.

IPG won the election 142-97, after which the union filed a complaint alleging that the company committed unfair labor practices, or ULPs. The complaint went to an administrative law judge, or ALJ, who found that IPG violated Section 8(a)(1) of the National Labor Relations Act, or the NLRA, on the following facets: (1) interrogating an employee regarding his opinions toward unions, (2) confiscating union literature from the break room, (3) surveilling employees' union activities by distributing leaflets at the plant's gate at the same time that union supporters handed out leaflets, and (4) engaging in improper conduct by telling employees it would be futile to select the union as their collective bargaining representative. Both the union and IPG objected to the ALJ's findings.

Upon review, the NLRB agreed with the ALJ's finding that an employee was improperly questioned by his direct supervisor during one-on-one conversations held after the election. The NLRB also determined that IPG's policy change regarding its solicitation and distribution policy was a reaction to and countermeasure against the union's campaign and was unlawful. Before the union's campaign began, literature placed in the break room remained there until the end of the workday. After the union filed its representation petition, supervisors, however, began closely monitoring the break room and removed literature, including information regarding the union's campaign, shortly after employees finished their breaks. Regarding the complaint that IPG employees' union activities were surveilled by distributing leaflets at the plant's gate at the same time as the union, the NLRB found that this behavior was unusual and violated the NLRA. This finding was because there was no evidence that IPG distributed leaflets to employees before the union's campaign and that supervisors could witness which employees distributed leaflets and those who accepted or rejected the leaflets. The NLRB disagreed, however, with the ALJ's finding that IPG telling employees it would be futile to select the union as their collective bargaining representative was unlawful. The NLRB noted that IPG was not properly notified of the allegations and the proof presented at the ALJ hearing involved different issues. Because the NLRB agreed that IPG's objectionable behavior occurred between the filing of the election petition and the election date, the proper remedy was to set aside the election and conduct a new election.

If you have questions about this topic, please contact your HR consultant at 803-896-5300. Thank you.