



560 Thomas L. Berkley Way • Oakland, CA 94612 • 510-251-1250 • Fax 510-763-2680
 5480 Ferguson Drive • Los Angeles, CA 90022 • 323-734-8399 • Fax 323-721-3538

November 20, 2008

Service Employees International Union
 1800 Massachusetts Avenue, N.W.
 Washington, DC 20036

Re: Protest of Sham Jurisdictional Advisory Vote

Dear Members of the International Executive Board and Election Officer Gitomer:

As you know, on August 25, 2008, President Stern issued a Notice of Proposed Trusteeship over our local, United Healthcare Workers - West (UHW), and thereafter prosecuted the charges outlined in that Notice before former Secretary of Labor Ray Marshall. We will not see Secretary Marshall's Report and Recommendation until mid-January, but based on six days of testimony over the past two months we believe that absolutely no basis for legally imposing a trusteeship on our local was established. To the contrary, the hearing confirmed that certain SEIU leaders under the leadership of Stern and Secretary Treasurer Burger have been leading a concerted political attack against our local for at least the past year in an effort to silence our criticism of SEIU policies and current direction.

Given what we believe to be the failure of the trusteeship process to provide an opportunity for Stern to takeover our local, he has quickly moved on to an alternative plan to dismantle UHW through a sham jurisdictional advisory vote. On September 10, 2008, Stern announced that, at some unspecified time in the future, SEIU would conduct a "pooled advisory vote" among all of SEIU's California healthcare members to determine their preference between the creation of a new statewide long-term care local, or a "new" statewide healthcare local to represent all healthcare members in California. Under each option, a new local would be chartered and run by a team of officers appointed by Stern, rather than elected by members. Under the first option, Local 6434 would cease to exist and UHW would lose nearly half of its membership without the democratic consent of its members; under the second option, the charters of both Local 6434 and the UHW would be revoked and both locals would cease to exist altogether. In both instances, President Stern rather than the members of the new local(s) would select the leadership of the new union(s).

On Monday November 17, 2008, just one day after our trusteeship hearing concluded, we received a second announcement from Stern in which he advised that the ballots for this "advisory vote" were being mailed that very same day and would be counted on December 11, 2008. Although this was the first notice given to UHW as to the timing of the vote, the trustee Stern appointed in August to run Local 6434 was given advance notice and an opportunity to conduct a telephone push-poll among 6434's membership urging them to vote in favor of the first option – creation of a new statewide long-term care local that would include all Local 6434 members along with the 65,000 LTC members that would be siphoned out of UHW, and the 15,000 homecare members of Local 521. Not only did this advance notice give SEIU the

opportunity to campaign for its desired outcome, the delayed notice given to UHW was undoubtedly calculated to deprive us of the ability to conduct an informational campaign among our members before the process was already underway. In fact the telephone push-poll was being conducted by 6434 staff at the same time as our scheduled trusteeship hearing was taking place in San Jose.

Given our serious objections to this vote and the sham process by which it is being executed we are writing to formally protest the conduct of this election and demand its immediate cancellation as it is clearly in violation of the International Constitution, as well as our rights under federal labor law.

Our specific objections are as follows:

1. The election is in clear violation of the provisions of Article XIV Sections (3) and (4) of the current SEIU Constitution in that no merger or consolidation of any local can occur without the consent of the Locals or a hearing upon reasonable notice. Any action taken pursuant to this election would violate those provisions for at least the following reasons:
 - a. The choices on this ballot do not allow for ascertaining the consent of the voter in that the only options are for merger, either of a substantial part of the UHW's membership or all of it. Members are not given the opportunity to express that they do not consent to merger or consolidation at all, as is their right under the Constitution;
 - b. The provisions of the SEIU Constitution which provide for the consent of the affected Local Unions cannot possibly be read to allow for pooled voting as the position of each affected Local Union cannot be ascertained under such circumstances;
 - c. The hearing which was held concerning long-term care jurisdiction cannot serve as a basis for establishing a "new" statewide healthcare local because it in no way concerned that issue. The call for the hearing only concerned long-term care jurisdictional issues, evidence was only taken on that issue, members not affected by that issue did not participate, and the hearing officer's report only addressed those issues. In short, there has been no hearing on the establishment of a "new" statewide healthcare local issue.
2. Despite the fact that the hearings only addressed long-term care members, virtually all SEIU healthcare workers in the state are participating in this referendum, meaning that members will participate on an unequal basis. Long-term care members will vote on choices which will include the one on which they had an opportunity to discuss (and one on which they didn't) while all others will participate in voting on issues for which they have had no opportunity to participate in a hearing process.

3. The ballot is plainly designed to serve as an alternative to trusteeship as a means to dismantle UHW. If there was any intention of conducting a democratic referendum and laying out all the possible options in order to determine members' true sentiments, the ballot would have included, at a bare minimum, an additional option on whether members' wished to remain in their current locals, or to join UHW which is, already, a statewide healthcare local that includes 65,000 LTC members and which has achieved an exceptional record of effective representation of its members and has a strong track record of successful collective bargaining in all areas of the healthcare industry.
4. Before any electorate can be expected to cast a meaningful and informed vote on any issue, the election must be preceded by discussion and debate of the "pros" and "cons" of the issues at hand to enable voters to make a thoughtful or enlightened choice among meaningful options. This discussion was effectively co-opted not only by Stern's refusal to offer meaningful choices on the ballot, but also the precipitous timing of this vote. Not only does the precipitous timing preclude this process, so also has the SEIU made it impossible for real voter education to be provided to all voters by repeatedly refusing to provide UHW with contact information for the Local 6434 membership and the affected 521 membership while nonetheless providing Local 6434 and 521 with that information about the UHW membership.
5. While SEIU has delegated the mechanics of the voting process to a California-based mail house, and the process is to be "supervised" by a retired Labor Department official, the rules governing that process, which state that members have the right to observe, have already denied a critical aspect of that right, afforded by Title IV of the Labor Management Reporting and Disclosure Act, by failing to inform would-be observers of the printing and mailing of ballots until after it had already occurred.

In conclusion, we submit that this "pooled advisory vote" is not just a sham, it is a source of huge, potential embarrassment that will further diminish SEIU's reputation as a progressive and ethical organization both in the labor movement and beyond. We firmly believe that this vote is being executed for the sole purpose of providing President Stern with another means with which to dismantle UHW as part of a continued campaign of retaliation against our local. In addition to our formal protest outlined here, 80,000 of our members have already signed a petition opposing trusteeship and this "advisory vote" and hundreds of academics, community leaders and elected officials have also signed letters urging President Stern to abandon trusteeship and halt further action that could negatively impact our capacity to carry out the work of our union. As those responsible for ensuring the integrity of this process we urge you to take our protest into serious consideration and stop this process from moving forward.


In Unity,



Sal Rosselli
President



Jorge Rodriguez
Executive Vice-President



Joan Emslie
Secretary-Treasurer