

REPORT FROM THE HEREIU

PUBLIC REVIEW BOARD

In 1995, HEREIU entered into a Consent Decree with the United States Department of justice to resolve the government's civil RICO lawsuit. That Consent Decree created both an Ethical Practices Code covering all HERE officers, employees and representatives and a Public Review Board charged with enforcing that Code. We began our service as the three members of the HEREIU Public Review Board in March 1998, following the three-year term of Kurt Muellenberg, one of our members, as the court-appointed Monitor of HEREIU. When HEREIU agreed with the United States during December 2000 to an order dismissing the original lawsuit, it became the first labor union in U.S. history to be released from a federal court's supervision. This unique position is due in large part to the resources HEREIU devoted to responding to the government's concerns about rooting out corruption and unethical practices, including the cooperation the government saw HEREIU extend to this Board. Together with the government, we look forward to seeing that cooperation continue. **The December 2000 order dismissing the lawsuit provides that the Public Review Board will continue to exist and function as a permanent counterpart to HEREIU, and the HEREIU Constitution now includes not only the full text of the Ethical Practices Code but a separate article describing the Board's functions and authority.**

Since our last report to HERE members in the Spring 2001 issue of CIE, Board investigations have led us to authorize the filing of formal disciplinary charges against eight HERE officers or members, one consultant to a HERE local union and one attorney for a HERE local's representatives on the board of its pension and welfare fund. We resolved five of the resulting disciplinary proceedings through settlements with the charged persons, entered orders following evidentiary hearings in three others, and utilized a new provision of our Rules to issue summary rulings in the remaining two proceedings after the charged persons failed to answer or otherwise contest the charges against them. In all but one of those cases, we barred the charged person from holding any position of responsibility with HEREIU, any HERE local or any of their related entities for varying periods of time. Our staff has prepared a list of all persons whom we or Mr. Muellenberg as the court-appointed Monitor have barred from such association during our respective tenures. A copy of that list is available from our office, or from HEREIU's general counsel. The HEREIU Ethical Practices Code prohibits HERE officers and members from knowingly associating with those persons and others it defines as "barred persons," as well as members of any criminal group.

Our experience from these disciplinary proceedings reinforces the importance of HEREIU and HERE local officers, employees and rank and-file members cooperating in Board investigations and with Board representatives. Our Rules provide that a person's failure to cooperate with a Board investigation is an independent ground for discipline to the full extent permitted by those Rules- i.e., being barred for life from membership in or association with the union. This obligation extends not only to persons charged with or suspected of disciplinary violations, but also to those who have information relevant to an investigation. In one of the disciplinary proceedings described above, we authorized the filing of disciplinary charges against an outside attorney based on his failure to respond to our investigator's requests for information. In another, we found that the evidence presented at the hearing was not sufficient to discipline the charged person-this time a HERE member-for the initial charges brought against him, but that his failure to provide additional documents and information we requested amounted to a failure to cooperate, and justified our decision to bar him from further association with the union.

Both we and our staff continue to devote substantial time to considering complaints and allegations we receive from the entire HERE community-HEREIU or HERE local officers, executive board members

and staff, but also rank-and-file HERE members. In determining which of those complaints and allegations warrant Board investigations, and which of those investigations warrant formal disciplinary charges, we attempt to draw a line between purely administrative decisions, which we consider the province of this union's officers and staff, and whether a decision or action violates the Ethical Practices Code or is otherwise unethical. Of course, that is not always an easy line to draw. Sometimes corrupt or unethical conduct takes the form of or is concealed behind a facade of "administration." However, our ongoing efforts to draw this fine serves to remind both us and you in the HERE community of the central division between our role and yours: this Board exists to enforce the HEREIU Ethical Practices Code and otherwise investigate and punish corrupt or unethical conduct by HEREIU or HERE local officers, members and representatives. However, it is up to those HERE officers, members and representatives, whether elected or appointed, retained or volunteer, to utilize their time and talents to make this a strong, democratic and effective union which will be better able to resist corruption and unethical conduct in the future.

Just as honest, sound and ethical administration by duly elected leaders is essential to keeping this union strong, so is the need for their political opponents to work with those leaders when the circumstances call for such cooperation. There is nothing inherently debilitating about ongoing political rivalry and competition. What can be debilitating is a political opponent's refusal to work with his or her rival once an election is over, and it is time for all members to turn to the tough decisions required to run a labor union. While we cannot require HERE members to behave as we believe a "loyal opposition" should, neither do we intend to contribute to such infighting. This Board will not allow anyone to use its operations and procedures as tools of political expedience or advantage. Should we find that any HEREIU or HERE local officers, former officers or members are attempting to do so, we will take the steps necessary to separate ourselves from any political aspects of the complaint, dispute or charge at issue, and consider whether the misuse of our procedures itself warrants discipline.

Finally, we have made it clear in all our dealings with HEREIU and HERE Local officers that we will not tolerate any form of retribution against members who forward complaints or allegations to us, and are prepared to severely discipline any officer or official who engages in it.

You can contact the Public Review Board with any concerns, allegations or complaints at its office at 13001 Street NW, Suite 300 West, Washington, D.C. 20005, or by calling the Board toll-free at (800) 862-5117.

Gov. James R. Thompson

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