ANALYSIS OF REPORTING COMPLIANCE OF LABOR RELATIONS
CONSULTANTS UNDER SECTION 203 (b) OF THE
LABOR-MANAGEMENT REPORTING AND
DISCLOSURE ACT, 1959

DISSERTATION

Presented to the Graduate Council of the
University of North Texas in Partial
Fulfillment of the Requirements

For the Degree of

DOCTOR OF PHILOSOPHY

By

Martin Asdorian, Jr., B.S., M.B.A.

Denton, Texas
December, 1990

This study examines the reporting compliance, as defined by section 203(b) of the Labor-Management Reporting and Disclosure Act (LMRDA), 1959, of labor relations consultants who engage in persuader activity. Organized labor suggests that the loss in union strength results, in large part, from management's use of labor relations consultants and their failure to file required reports with the U.S. Department of Labor.

Two samples of labor relations consultants known to have engaged in persuader activity and two samples of those who could be engaged in persuader activity are identified. A research questionnaire is mailed to 779 of the total of 887 labor relations consultants for whom an address could be developed.

Discriminant analysis using 16 variables correctly classifies 93.8 percent of the responding labor relations consultants grouped according to whether they had filed required reports. Other discriminant analyses using selected variables are also conducted.
Three associated questions are answered. First, there are an estimated 850 labor relations consultants who have engaged in persuader activity or who can be presumed to have engaged in persuader activity. Of this number, almost 500 are estimated to have engaged in persuader activity and only 30 percent of these are estimated to have filed required reports. Second, the labor relations consultants surveyed is, on average, male, an attorney, is titled "president" and is located in California, Michigan or Illinois. Third, solely in the context of National Labor Relations Board election processes, the effect on the loss of the union strength caused by (1) labor relations consultants and (2) the failure of the consultants who engaged in persuader activity to file a required report cannot be determined. However, because the estimated decrease in the number of union members over the years 1960 - 1989 exceeds the number of eligible voters in N.L.R.B. elections lost by unions over the same period, this effect is assessed as minimal.
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>List of Tables</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>CHAPTER I</td>
<td></td>
</tr>
<tr>
<td>Introduction</td>
<td>1</td>
</tr>
<tr>
<td>Statement of Problem</td>
<td>7</td>
</tr>
<tr>
<td>Purpose of the Study</td>
<td>7</td>
</tr>
<tr>
<td>Research Methodology and Design</td>
<td>7</td>
</tr>
<tr>
<td>Definitions</td>
<td>9</td>
</tr>
<tr>
<td>Hypothesis and Research Questions</td>
<td>17</td>
</tr>
<tr>
<td>Significance of the Study</td>
<td>19</td>
</tr>
<tr>
<td>Limitations of the Study and Key Assumptions</td>
<td>21</td>
</tr>
<tr>
<td>Structure of the Study</td>
<td>24</td>
</tr>
<tr>
<td>CHAPTER II</td>
<td>26</td>
</tr>
<tr>
<td>Review of the Literature</td>
<td>26</td>
</tr>
<tr>
<td>History of Labor-Management Reporting and</td>
<td></td>
</tr>
<tr>
<td>Disclosure Act, 1959</td>
<td>27</td>
</tr>
<tr>
<td>U.S. Department of Labor Records</td>
<td>31</td>
</tr>
<tr>
<td>Books and Articles</td>
<td>32</td>
</tr>
<tr>
<td>Decisions of Courts and Administrative Rulings</td>
<td>38</td>
</tr>
<tr>
<td>Names of Labor Relations Consultants</td>
<td>48</td>
</tr>
<tr>
<td>Quantitative Data</td>
<td>50</td>
</tr>
<tr>
<td>Summary</td>
<td>53</td>
</tr>
<tr>
<td>CHAPTER III</td>
<td>55</td>
</tr>
<tr>
<td>Research Design</td>
<td>55</td>
</tr>
<tr>
<td>Sampling Design</td>
<td>56</td>
</tr>
<tr>
<td>Samples</td>
<td>58</td>
</tr>
<tr>
<td>Data Collection</td>
<td>74</td>
</tr>
<tr>
<td>Variables Employed</td>
<td>78</td>
</tr>
<tr>
<td>Data Analysis</td>
<td>79</td>
</tr>
<tr>
<td>Summary</td>
<td>81</td>
</tr>
<tr>
<td>CHAPTER IV</td>
<td>82</td>
</tr>
<tr>
<td>Discriminant Analysis</td>
<td>83</td>
</tr>
<tr>
<td>Labor Relations Consultants</td>
<td>94</td>
</tr>
<tr>
<td>U. S. Government Data</td>
<td>105</td>
</tr>
</tbody>
</table>

iv
<table>
<thead>
<tr>
<th>Chapter/Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Summary</td>
<td>115</td>
</tr>
<tr>
<td>CHAPTER V</td>
<td></td>
</tr>
<tr>
<td>Synopsis of the Study</td>
<td>117</td>
</tr>
<tr>
<td>Results of Hypothesis Testing</td>
<td>117</td>
</tr>
<tr>
<td>Research Questions</td>
<td>120</td>
</tr>
<tr>
<td>Implications for Further Research</td>
<td>124</td>
</tr>
<tr>
<td>Conclusion</td>
<td>130</td>
</tr>
<tr>
<td>APPENDIX A</td>
<td>132</td>
</tr>
<tr>
<td>APPENDIX B</td>
<td>134</td>
</tr>
<tr>
<td>APPENDIX C</td>
<td>140</td>
</tr>
<tr>
<td>APPENDIX D</td>
<td>145</td>
</tr>
<tr>
<td>APPENDIX E</td>
<td>152</td>
</tr>
<tr>
<td>APPENDIX F</td>
<td>156</td>
</tr>
<tr>
<td>BIBLIOGRAPHY</td>
<td>160</td>
</tr>
<tr>
<td></td>
<td>167</td>
</tr>
</tbody>
</table>
# LIST OF TABLES

<table>
<thead>
<tr>
<th>Table</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Confusion Matrix, First Discriminant Analysis</td>
<td>86</td>
</tr>
<tr>
<td>2</td>
<td>Standardized Canonical Discriminant Function Coefficients, 42 Variables in First Discriminant Analysis</td>
<td>86</td>
</tr>
<tr>
<td>3</td>
<td>Confusion Matrix, Second Discriminant Analysis</td>
<td>88</td>
</tr>
<tr>
<td>4</td>
<td>Standardized Canonical Discriminant Function Coefficients, 16 Variables in Second Discriminant Analysis</td>
<td>88</td>
</tr>
<tr>
<td>5</td>
<td>Additional Discriminant Analyses</td>
<td>90</td>
</tr>
<tr>
<td>6</td>
<td>Comparison of Group Means on the Variable PERSAGRE</td>
<td>93</td>
</tr>
<tr>
<td>7</td>
<td>Classification Matrix</td>
<td>93</td>
</tr>
<tr>
<td>8</td>
<td>Labor Relations Consultants by Sample</td>
<td>95</td>
</tr>
<tr>
<td>9</td>
<td>Percentage of Mailed Research Questionnaires Delivered</td>
<td>97</td>
</tr>
<tr>
<td>10</td>
<td>Number of Principals by Descending Level of Organizational Hierarchy (with 1st being the top person) and within Level, By Sex and Percent of Total for Level</td>
<td>99</td>
</tr>
<tr>
<td>11</td>
<td>Number of Principals by Descending Level of Organizational Hierarchy (with 1st being the top person) and within Level, By Highest Earned Academic Credential and Percent of Total for Level</td>
<td>100</td>
</tr>
<tr>
<td>12</td>
<td>Number of Principals by Descending Level of Organizational Hierarchy (with 1st being the top person) and within Level, By Title and Percent of Total for Level</td>
<td>101</td>
</tr>
<tr>
<td>13</td>
<td>Additional Discriminant Analyses</td>
<td>102</td>
</tr>
<tr>
<td>14</td>
<td>Geographic Distribution of Labor Relations Consultants</td>
<td>103</td>
</tr>
<tr>
<td>Page</td>
<td>Title</td>
<td>Page Number</td>
</tr>
<tr>
<td>------</td>
<td>----------------------------------------------------------------------</td>
<td>-------------</td>
</tr>
<tr>
<td>15</td>
<td>Forms LM-10, LM-20 and LM-21 Filed by Fiscal Year</td>
<td>106</td>
</tr>
<tr>
<td>16</td>
<td>N.L.R.B. Representation and Decertification Elections</td>
<td>108</td>
</tr>
<tr>
<td>17</td>
<td>Eligible Voters in N.L.R.B. Representation and Decertification Elections</td>
<td>111</td>
</tr>
<tr>
<td>18</td>
<td>Elections/Form LM-20 Index</td>
<td>113</td>
</tr>
<tr>
<td>19</td>
<td>Comparison of Group Means on 33 Predictor Variables</td>
<td>141</td>
</tr>
<tr>
<td>20</td>
<td>Research Questionnaires Mailed</td>
<td>142</td>
</tr>
<tr>
<td>21</td>
<td>Research Questionnaires Returned Undeliverable</td>
<td>143</td>
</tr>
<tr>
<td>22</td>
<td>Research Questionnaires Delivered</td>
<td>144</td>
</tr>
</tbody>
</table>
CHAPTER I

INTRODUCTION

The power of organized labor in the United States has diminished in recent years. Organized labor suggests that this diminution is based, in large part, on management's increased commitment to establishing a union-free environment. It has been also been suggested by leaders of organized

---


The March, 1989 issue of the Bureau of Economic Analysis, U.S. Department of Commerce's publication, Business Conditions Digest, in table number 441, "Civilian Labor Force," located in the historical data section, page 100, indicates that the civilian labor force in 1960 was, on average, 69,628,000. The March, 1990 issue of Business Conditions Digest, in table 441, page 89, contains monthly total civilian labor force figures that average 123,849,000 for 1989.

Thus, over the same time span, while the total U.S. civilian labor force has increased by 77.87%, union membership has decreased by about half a percent. In 1960, union membership represented 24.49% of the total U.S. civilian labor force; by 1989, the percentage had decreased to 13.69. If the 1960 percentage were applied to the total 1989 U.S. civilian labor force, union membership would be 30,330,620, a difference of 13,370,620, or almost twice the actual 1989 figure.

2 Alan Kistler, AFL-CIO Director of Organization and Field Services, in his prepared statement before the Subcommittee on Labor-Management Relations of the House Committee on Education and Labor on October 16,
labor that management's primary and most effective technique in implementing this commitment is the use of labor relations consultants,\(^3\) often referred to by labor leaders as "union busters." Kistler condemned labor relations consultants by saying that "their efforts have no legal or moral bounds. Legal restrictions on threats, coercion, surveillance, inducements and firings cannot and do not impede their efforts at control."\(^4\)

Many aspects of the use of labor relations consultants and the tactics, strategies, and techniques that they employ are of interest. This study, however, is concerned only with the issue of labor relations consultants who engage in persuader activity and whether, having engaged in such activity,

---

3 See, for example, the statement of George Becker, Vice President of the Steelworkers: "their [management's] biggest weapon is anti-union consultants," reported in the *Daily Labor Review*, October 20, 1987, p. A-9. Charles McDonald, Executive Assistant to the Director, Department of Organization & Field Services, AFL-CIO, in his verbal testimony before the Subcommittee on Labor-Management Relations of the House Committee on Education and Labor on February 7, 1984, said, in part, "it is clear that the consultant plays a massive role on the organizing scene today. He stimulates the employer and its supervisors to more aggressive, sophisticated, and illegal campaign tactics; and ... he has shaped the course of antiunion organizing methodology." *Oversight Hearings on Landrum-Griffin Act*, 98th Cong., 2d Sess. 283.

4 *Pressures in Today's Workplace*, 27.
they comply with the reporting obligations imposed by the Labor-Management Reporting and Disclosure Act, 1959,\(^5\) hereafter referred to as the LMRDA or Landrum-Griffin Act.

Labor relations consultant compliance with these reporting obligations are of special concern for at least two reasons. The first is the perception of equity. Organized labor believes that, especially under Republican administrations, unions are carefully monitored with respect to reporting obligations, and management and their consultants are not.\(^6\) The second deals with the value of the information that should be in the required reports. Management can use the information contained in the reports filed by the union against the union, for example, in an organizational drive. The union does not have a similar opportunity because, it is alleged, the employer and labor relations consultant reports have not been filed.\(^7\) Further, labor

---


\(^7\) For example, What's the Cost?: The High Costs of Union Membership in Money and Freedom (Arlington, VA: Master Printers of America, 1973), a pamphlet "... designed to point out some of the pitfalls of union
argues, employers are aided by labor relations consultants who fail to report certain activities that, under the provisions of the LMRDA, should be reported to the federal government. Kistler describes the situation with the following:

but as any employee or union organizer who has attempted to obtain financial information from the Labor Department knows, administration and enforcement of this law have not fulfilled the legislative aspirations. Meaningful reporting does not exist. It is a particularly cruel irony to the labor movement because this same law which imposed, with singular futility a reporting requirement on consultants and employers has been a legislative masterpiece in gaining vast amounts of financial, administrative and legal information on labor organizations. The principle of this irony is the fact that nearly every labor management membership," suggests that union dues and other union fees are "necessary to enable the officers and the growing number of union officials to continue to draw their high salaries and fat expense accounts," and includes detailed union officer specific data on salaries and reimbursed expenses extracted from reports filed with the U.S. Department of Labor. There appear to be fewer examples, unions also use information filed with the U.S. Department of Labor. Flex Plastics, Inc., hired consultant Rayford T. Blankenship and filed Employer Reports (LM-10s) indicating that Blankenship had been paid $32,000 for services related to a bargaining unit of only 25, an expense of opposing the union of almost $1,300 per employee (AFL-CIO, Report on Union Busters, Washington, D.C.: November-December, 1982), 6.

Management has a right to take certain steps to communicate its views during the period before a representation election. Management can employ outside consultants to help it frame its options, plan a campaign, or provide whatever other counsel or support that they can. Organized labor and its supporters identify these outsiders collectively, as "union busters." While organized labor has the right to use whatever pejorative it feels appropriate with regard to these outsiders, their use is, conceptually and legally, perfectly proper and, with the following exception, without constraint. The single constraint is that when a labor relations consultant engages in persuader activity or other reportable activity the consultant must file certain reports with the U.S. Department of Labor.
consultant now uses the information on the labor union and its staff as a cornerstone in conducting an anti-union campaign.9

Lawrence and Williams10 describe the significance of the issue in more practical terms:

Systematic enforcement of the reporting and disclosure provisions of the LMRDA would help the labor movement organize more effectively. Most importantly, it would make valuable information available to union organizers and members. LM-20s, 21s and 10s reveal which consultants an employer hires, how much he is paid, what services he performs, and which unions or individuals are targeted. This information can be used to anticipate actions by the union busters or discredit the employer in the eyes of workers and the public. Second, meeting the requirements of the filing provisions . . . is time consuming and often costly. The need to fill out elaborate forms may be a disincentive to some employers and consultants. If some of the bigger union busting firms were required to file, they would owe thousands of 'back' forms, a logistical nightmare. Strict enforcement might thus slow down the growth of the union busting profession.11

This study analyzes almost all forms filed pursuant to the terms of the LMRDA with the U.S. Department of Labor through May 31, 1989 by labor relations consultants who engage in persuader activity (forms LM-20 and LM-21) and by the companies that employ labor relations consultants to engage in persuader activity (form LM-10). A questionnaire is sent to four samples of

9 Pressures in Today's Workplace, 34.


11 Lawrence and Williams, 18.
labor relations consultants, one of which is drawn from the analysis of forms LM-20 and LM-21, and another from the analysis of forms LM-10, to identify variables that characterize labor relations consultants who are known to have engaged in persuader activity and have filed a mandatory report and labor relations consultants who are not known to have engaged in persuader activity.

A literature search of appropriate books, articles, relevant decisions of courts and administrative bodies, Congressional hearings, and the administrative rulings of the U.S. Department of Labor has been conducted. Several publications of the AFL-CIO, while clearly not impartial with regard to the issue of labor relations consultants, have also been examined, and the third of the four samples of labor relations consultants has been developed from that examination. The fourth sample is taken from yellow pages telephone directories.

Discriminant analysis using variables associated with labor relations consultants known to have engaged in persuader activity and who have filed a required report and variables associated with labor relations consultants known to have failed to file such a report, is used to develop a profile of variables that can be used to predict the reporting compliance of a labor relations consultant.
This study is important because such an analysis has not previously been done. It sheds light on what Freeman\textsuperscript{12} suggests is one of the most significant work-place trends in the United States: the "de-unionization" of the U.S. labor force.

**Statement of the Problem**

The problem motivating this study is the lack of information about labor relations consultants and the extent of their reporting compliance under the provisions of Section 203(b) of the Labor-Management Reporting and Disclosure Act, 1959.

**Purpose of Study**

The purpose of this study is to test a hypothesis to determine if there is a mix of variables that can predict whether labor relations consultants who engage in persuader activity will file a required report with the U.S. Department of Labor.

**Research Methodology and Design**

This study employs three distinct research steps: (1) an archival analysis of material filed with the U.S. Department of Labor over almost thirty years, (2) the collection and manipulation of data filed with several

---

branches of the U.S. Government over the same years, and (3) a questionnaires mailed to labor relations consultants. Four different but overlapping samples of labor relations consultants are developed.

Copies of the forms LM-10 (Employer Report), LM-20 (Agreement and Activities Report), and LM-21 (Receipts and Disbursements Report), filed with the U.S. Department of Labor in Washington, D.C. during the fiscal years 1960 through mid-1989, are acquired; and the names and addresses of labor relations consultants who have engaged in reportable activity defined as persuader activity are extracted. These are the first two samples: the LM-10 sample of consultants and the sample developed from forms LM-20 and LM-21. The names of labor relations consultants, whose actual involvement in persuader activity cannot be determined from the text of the listing itself, are extracted from yellow pages telephone books, the third sample. The fourth and final sample is taken from the literature, especially publications of the AFL-CIO.

A questionnaire is developed and mailed to the labor relations consultants in all four samples. Discriminant analysis is used to establish a discriminant model using an index of variables whose objective is to predict membership in the two, mutually exclusive groups: labor relations consultants known to have engaged in persuader activity and filed a required report and those labor relations consultants who are not known to have engaged in persuader activity.
The final research technique involves the examination of data published by the National Labor Relations Board (NLRB) and by the Labor-Management Services Administration (LMSA) and Office of Labor-Management Standards (OLMS) for the fiscal years 1960 through 1989. The NLRB data describes, by fiscal year, the number of representation and deauthorization elections held; the number of voters eligible to vote in these elections; the number of the total elections won by unions; and the number of voters eligible to vote in the elections won by unions. The LMSA and OLMS data describe, by fiscal year, the total numbers of forms LM-10, LM-20, and LM-21 filed with the U.S. Department of Labor.

**Definitions**

For the purposes of this study, a labor relations consultant, as defined below, who has filed at least one form LM-20 or LM-21 with the U.S. Department of Labor at any time, is presumed to have complied with all reporting obligations. This presumption is an oversimplification but one that permits a meaningful analysis and avoids the necessity for examining each covered arrangement or agreement made over a 30 year period and making the necessary judgements to assess reporting compliance.

There are a number of other terms that must be defined. Organized labor uses the term "union buster."\(^{13}\) McDonald defines the term as follows:

\(^{13}\) See, for example, *Report on Union Busters: RUB Sheet*, a bi-monthly newsletter published by the National Organizing Coordinating Committee,
We consider someone a union buster who plans and executes an antiorganizing drive by the employer. Frequently—and I should say most typically it involves intensive training of supervisors, monitoring the activities of the supervisor in relation to the employees in the bargaining unit, keeping track of how the employees are trending, and making sure that the propaganda that comes from the employer is carefully tailored to maximize the opportunity for a no-union vote.  

Representative Erlenborn, a Republican member of the House subcommittee, responded to McDonald that with this definition, he could be defined "as a Democrat Party buster." Similarly, management attorney Cabot has suggested that "he is no more a union-buster than Lane Kirkland [President of the AFL-CIO] is a 'company-buster.'" The term "union buster" is a subjective one and is not used in this study.

Definitions of other important terms are as follows:

'labor relations consultant' means that any person who, for compensation, advises or represents an employer, employer organization, or labor organization concerning employee

AFL-CIO, and designed to inform union organizers about the identity and tactics of companies who resist organizing efforts and the 3rd parties they employ to assist.

14 Verbal testimony of Charles McDonald, Executive Assistant to the Director, Department of Organization & Field Services, AFL-CIO, before the Subcommittee on Labor-Management Relations, House Committee on Education and Labor, 7 February 1984, Oversight Hearings on Landrum-Griffin Act, 286.

15 McDonald, Oversight Hearings on Landrum-Griffin Act, 287.

organizing, concerted activities, or collective bargaining activities.\textsuperscript{17}

The term "persuader activity" is described as follows:

Every person who pursuant to any agreement or arrangement with an employer undertakes activities where an object thereof is, directly or indirectly--\(1\) to persuade employees to exercise or not to exercise, or persuade employees as to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing.\textsuperscript{18}

Labor relations consultants who agree or arrange to engage in persuader activity are required to file an appropriate report with the Secretary of Labor.\textsuperscript{19} There are two reports, the first of which is the form LM-20. A labor relations consultant who agrees or arranges to engage in persuader activity must do the following:

File a report with the Office of Labor-Management Standards, and one copy thereof, on form LM-20 entitled 'Agreement and Activities Report (required of persons, including labor relations consultants and other individuals and organizations)' in the detail required by such form and the instructions accompanying such form and constituting a part thereof. The report shall be filed within 30 days after entering into an agreement or arrangement of the type described.\textsuperscript{20}

The second report is the form LM-21. A labor relations consultant who agrees or arranges to engage in persuader activity and


\textsuperscript{20} 29 C.F.R. § 406.2(a) (1989).
who, as a result of such agreement or arrangement made or received any payment during his fiscal year, shall file a report and one copy thereof, with the Office of Labor-Management Standards, on Form LM-21 entitled 'Receipts and Disbursements Report (required of persons, including labor relations consultants, other individuals and organizations)', in the detail required by such form and the instructions accompanying such form and constituting a part thereof. The report shall be filed within 90 days after the end of such person's fiscal year during which payments were made or received as a result of such an agreement or arrangement.21

There are three important exceptions to these reporting obligations:

the "advice" exception, the "employee" exception, and the "attorney" exception.

Each is controversial and is examined in chapter II. The legislative text describing each of these exceptions follows.

The "advice" exception is described as follows:

Nothing in this section[22] shall be construed to require any employer or other person to file a report covering the services of such person by reason of his giving or agreeing to give advice to such employer or representing or agreeing to represent such employer before any court, administrative agency, or tribunal of arbitration or engaging or agreeing to engage in collective bargaining on behalf of such employer with respect to wages, hours, or other terms or conditions of employment or the negotiation of an agreement or any question arising thereunder.23

The "employee" exception is described as follows:


Nothing contained in this section\textsuperscript{24} shall be construed to require any regular officer, supervisor, or employee of an employer to file a report in connection with services rendered to such employer nor shall any employer be required to file a report covering expenditures made to any regular officer, supervisor, or employee of an employer as compensation for service as a regular officer, supervisor, or employee of such employer.\textsuperscript{25}

The "attorney" exception is described as follows:

Nothing contained in this Act shall be construed to require an attorney who is a member in good standing of the bar of any State, to include in any report required to be filed pursuant to the provisions of this Act any information which was lawfully communicated to such attorney by any of his clients in the course of a legitimate attorney-client relationship.\textsuperscript{26}

The employer who hires a labor relations consultant to engage in persuader activity must also file a Form LM-10. This report must be filed by any employer who makes:

any agreement or arrangement with a labor relations consultant or other independent contractor or organization pursuant to which such person undertakes activities where an object thereof, directly or indirectly, is to persuade employees to exercise or not to exercise, or persuade employees as to the manner of exercising, the right to organize and bargaining collectively through representatives of their own choosing, or undertakes to supply such employer with information concerning the activities of employees or a labor organization in connection with a labor dispute involving such employer, except information for use solely in conjunction with an administrative or arbitral proceeding or a criminal or civil judicial proceeding.\textsuperscript{27}

\textsuperscript{24} That is, LMRDA § 203, 29 U.S.C. § 433 (1989).


Such an employer shall

file with the Office of Labor-Management Standards, within 90
days after the end of each of its fiscal years, a report signed by
its president and treasurer together with a true copy thereof,
containing the detailed information required therein.\textsuperscript{28}

file such report on the United States Department of Labor Form-10
entitled, 'Employer Report' in the detail required by the instructions
accompanying such form and constituting a part thereof.\textsuperscript{29}

The "advice" and "employee" exceptions to the labor relations consultant
reporting obligation, cited above, are contained in LMRDA (203) (c) and (d),
29 U.S.C. § 433, and also apply to the employer reporting obligation which is
also found in LMRDA (203). The "attorney" exception also applies to employer
reports.\textsuperscript{30}

United States Department of Labor forms LM-10, Employer Report,
LM-20, Agreement and Activities Report (required of persons, including labor
relations consultants and other individuals and organizations), and LM-21,
Receipts and Disbursements Report (required of persons, including labor
relations consultants, other individuals and organizations), and the
instructions that accompany these forms and constitute a part of these forms
are found in appendix D and E, respectively. Each of these forms must also
be filed in circumstances other than those associated with persuader activity.

\textsuperscript{28} 29 C.F.R. § 405.2 (1989).
\textsuperscript{29} 29 C.F.R. § 405.3 (1989).
\textsuperscript{30} 29 C.F.R. § 405.6 (1989).
Form LM-20, Agreement and Activities Report, must also be filed where the labor relations consultant is employed to supply an employer with information concerning the activities of employees or a labor organization in connection with a labor dispute involving such employer, except information for use solely in conjunction with an administrative or arbitral proceeding or a criminal or civil judicial proceeding.\textsuperscript{31}

Form LM-10, Employer Report, must be filed in five circumstances in addition to an agreement or arrangement with a labor relations consultant to engage in persuader activity. These circumstances include: (1) payments to union officers; (2) payments to employees related to influencing representation issues; (3) expenditures to coerce employees with respect to representation issues; and two related circumstances, (4) the payment to obtain information related to a labor dispute and (5) the similar payment to a labor relations consultant.\textsuperscript{32}

\textsuperscript{31} 29 C.F.R. § 406.2(a)(2) (1989). See Form LM-10, Agreement and Activities Report, Section B.(Nature of Agreement or Arrangement), Item 8(b), appendix C.

\textsuperscript{32} See LM-10, Employer Report, Item 8, Questions A, B, C, D, and F, Appendix C. See 29 C.F.R. § 405.2 (1989) which refers "... to any payment, loan, promise, agreement, arrangement or expenditure of the kind described and required by section 203(a) of the Act ..."

LMRDA § 203(a)(1),(2),(3), and (4), 29 U.S.C. § 433 (1988), [that part of subdivision (4), describing persuader activity is quoted in the text, above, and not repeated here] requires that an LM-10 be filed by any employer who made:

(1) any payment or loan, direct or indirect, of money or other thing of value (including reimbursed expenses), or any promise or agreement thereof, to any labor organization or officer, agent, shop steward, or other representative of a labor organization, or employee of any labor organization, except (A) payments or loans made by any national or State bank, credit
All actions that require the submission of forms LM-10, LM-20, or LM-21 are described as "reportable activity." The focus of this study is that portion of reportable activity defined, above, as persuader activity.

There are significant penalties associated with the failure of a labor relations consultant or an employer to file a required report or to falsify or misrepresent information on a report actually submitted. These criminal provisions are described as follows:

(a) Any person who willfully violates this title\(^{[33]}\) shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

\(^{[33]}\) That is, Title II of the LMRDA, 29 U.S.C. §§ 431 et seq (1988).
(b) Any person who makes a false statement or representation of a material fact, knowing it to be false, or who knowingly fails to disclose a material fact, in any document, report, or other information required under the provisions of this title shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(c) Any person who willfully makes a false entry or willfully conceals, withholds, or destroys any books, records, reports, or statements required to be kept by any provision of this title shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(d) Each individual required to sign reports under sections 201 and 203 shall be personally responsible for the filing of such reports and for any statement contained therein which he knows to be false.  

Hypothesis and Research Questions

This study tests the following null hypothesis: there is no combination of variables that can predict with any degree of accuracy whether or not a labor relations consultant who engages in persuader activity will file a required report.

Further, this study addresses the following research questions:

Research Question #1: What is an estimate of the number of labor relations consultants who engage in persuader activity or can reasonably be presumed to have engaged in persuader activity?

Research Question #2: What is the sex, highest earned educational level title and geographic distribution of labor relations consultants?

Research Question #3: What is the estimated influence of labor relations consultants on the decrease in strength of organized labor and the estimated influence of persuader activity reporting compliance on the outcome of N.L.R.B. elections?

This study is based on the position that reasonable assumptions about the population of labor relations consultants can be inferred from an examination of reported characteristics of members of four specific samples who returned a completed questionnaire. The key variable is dichotomous, and its value with respect to every labor relations consultant in the population is known or can be deduced. That key variable is whether or not the labor relations consultant filed a form LM-20 or LM-21 with the U.S. Department of Labor. This information is determined by an examination of a copy of almost every such form ever filed.

The strategy employed in this study is to, identify the members of the following four major samples of labor relations consultants: those who advertise in the yellow pages, those named in the LM-10s (the report filed by the company that employs the labor relations consultant to engage in some form of reportable activity), those named in forms LM-20 and LM-21 (the
reports filed by the consultant employed to engage in reportable activity), and those identified in current literature.

These samples are not mutually exclusive, and the extent of overlap is meaningful. The inferences drawn from the examination of the questionnaires returned by members of these four samples will be applied to the stated hypothesis.

The primary objective is based on the dichotomous variable. Using data collected with a mailed questionnaire, a profile of the variables associated with labor relations consultants who are known to have engaged in persuader activity and have filed a required report and labor relations consultants who are not known to have filed a required report has been constructed. These variables include geographic location, business form, composition of client group, source of clients, area of specialization, and educational level of executives.

**Significance of the Study**

Union membership in the United States has decreased over the past twenty-seven years, both in absolute numbers and as a percentage of the total civilian labor force.\(^{35}\) Freeman characterizes the trend as follows:

Because the private sector employs nearly 85 percent of nonagricultural wage and salary workers in the United States, the contraction of unionization in the private sector dominates the trend for the economy as a whole, with the result that the

\(^{35}\) See note 1, above.
union proportion of non-agricultural employees fell from 36 percent in 1956 to 18 percent in 1986. This decline in union density was larger than that of the 1920s, and thus arguably represents the most significant change in labor market institutions since the Depression—the effective de-unionization of most of the U.S. labor force.36

This trend may not be so much a function of some inherent failing on the part of organized labor, but rather a result of the increasing efforts of management. Management resists the efforts of labor unions to organize workers and, where workers are already organized, supports any attempt to decertify the union.

This study is significant, in the context of the decrease in the strength of organized labor in the United States, because it examines a controversial aspect of one of the alleged causes of this loss of strength, management’s use of labor relations consultants. More specifically, this study examines the reporting compliance of labor relations consultants who engage in persuader activity and, for the first time, describes these labor relations consultants in terms of specific variables, estimates their influence in representation and decertification elections over a time span of 30 years, and, for the first time, provides a reasonable estimate of the number of labor relations consultants who engage in persuader activity and file a required report and, more importantly, the number of labor relations consultants who engage in persuader activity and fail to file a required report.

36 Freeman, 2.
Further, this study is significant because it tests the null hypothesis that there is no mix of variables that would predict with any degree of accuracy the reporting compliance of labor relations consultants who engage in persuader activity. The result of this test contributes to the assessment of whether reporting compliance of labor relations consultants may be related to the decrease in the strength of organized labor.

**Limitations of the Study and Key Assumptions**

There were and are a number of limitations associated with this study. While a major limitation that existed has been overcome, it is appropriate to mention it because it would confront any research trying to replicate the methodology used in this study or to extend the basic findings of this study to some of the associated research issues mentioned. That limitation is the development of the list of labor relations consultants who have filed forms LM-20 and LM-21 and the list of labor relations consultants named in forms LM-10 filed by employers. The development of this lists requires the review of almost 20,000 sheets, which exist only in Washington, D.C.\(^{37}\) and are available for public inspection during normal working hours. Copies of clearly

identified sheets or files can be obtained through the mail at a cost of $.15 per sheet.\textsuperscript{38}

This study uses a mailed questionnaire sent to a mailing list developed from four samples of labor relations consultants. Each of these samples has an inherent weakness, and the weakness of each is carried over into the mailing list. These weaknesses are discussed below but, in general, are (1) the inclusion of names of those who are not labor relations consultants who engage in persuader activity, (2) very old and, therefore, unreliable information, and (3) the absence of mailing addresses.

The focus of this study is the labor relations consultants who engage in persuader activity and the ability to predict whether they file the reports required as a result of having engaged or agreeing to engage in such activity. There are a number of related issues that, while of significant importance and interest, are beyond the scope of this study.

Organized labor suggests that its recent decline is based primarily on management's increased resistance to union organizing attempts. "The norm is that unions now face employers who are bent on avoiding unionization at all costs."\textsuperscript{39} "The form of increased employer resistance ranges from

\textsuperscript{38} 29 C.F.R. § 70.53(c) (1989).

outright hostility to unions to the improvement of wages and/or working conditions so that workers don’t feel they need a union.\textsuperscript{40}

Farber\textsuperscript{41} contends that one key tactic of this increased resistance is the employment of a labor relations consultant. He cites Freeman\textsuperscript{42} in presenting three tactics of labor relations consultants: first, labor relations consultants can "emphasize 'positive labor relations' by which is meant having the nonunion employer provide a union-like environment including higher wages, better fringe benefits, workplace due-process;" second, they can "conduct a very active but legal campaign that includes much communication with workers regarding their views of what unionization will mean, gerrymandering of the unit of representation, and delay of the election itself:" and third, they can "conduct an illegal election campaign by committing obvious unfair labor practices."\textsuperscript{43} While labor relations consultant tactics such as these may, indeed, have contributed to recent union weakness, they are beyond the scope of this study.


\textsuperscript{41} Farber, 20.


\textsuperscript{43} Farber, 20.
Further, there is a basic underlying limitation that has limited the number of responses. The research questionnaire asks questions of labor relations consultants who, presumably, engage in persuader activity. Many of these questions are associated with the core issue of this study: the failure of members of this same group to provide mandatory answers to related questions to the federal government. If some labor relations consultants are willing to risk the penalties associated with failing to, in effect, answer questions of the federal government, they are not likely to respond to similar questions in an academic questionnaire.

Structure of This Study

This study consists of five chapters. Chapter I includes the background and general methodology. Chapter II contains a survey of the literature, including a review of the legislative history of the Labor-Management Reporting and Disclosure Act of 1959, a review of court cases arising from this law and its interpretation, and an examination of previous research. The research methodology, including the research design; a description of the target population and samples involved; data collection procedures; the measurement of variables, and data analysis procedures is presented in chapter III. Chapter IV contains a description of the findings, and the final chapter, chapter V, contains the conclusions, inferences, and appropriate recommendations.
Also included in this study are a comprehensive bibliography and appendices containing definitions of the variables used in the discriminant analyses; the questionnaires and transmittal letters used; copies of forms LM-10, LM-20; and LM-21, and the instructions for preparation of these forms published by the U.S. Department of Labor. The appendices also contain tables of data related to the study but not elsewhere readily available and not appropriate for inclusion in the text or footnotes.
CHAPTER II

REVIEW OF THE LITERATURE

A review of the literature is necessary in order to trace the history of the use of labor relations consultants, the positions of organized labor, management, the federal government and the courts with respect to labor relations consultants and the reporting obligations imposed on labor relations consultants by the Landrum-Griffin Act. This literature is extensive and covers the more than thirty years beginning in the late 1950s.

Five distinct areas are examined: the legislative history of the Landrum-Griffin Act and those portions of the Act dealing with the reporting obligations of labor relations consultants; the records maintained by the United States Department of Labor and related to employer and labor relations consultant reporting compliance; articles and books; decisions and records of courts and administrative bodies; and records and publications containing the names and descriptions of activities of labor relations consultants.

1 The LMRDA also places significant reporting obligations on labor organizations and labor organization officers and employees. See, 29 U.S.C. §§ 431, 432, 461 through 466, 481 through 484, 501 through 505 and 29 C.F.R. §§ 402, 403, 404, 409, 417.
History of the Labor-Management Reporting and Disclosure Act, 1959

The National Labor Relations Act (NLRA)\(^2\), became law in 1935. It provided the foundation for the right of employees to organize and bargain collectively through representatives of their own choosing and imposed on employers the duty of good-faith bargaining with respect to wages and other terms and conditions of employment. Labor unions grew, and collective bargaining became widespread during the years through 1947, when concern over certain union practices caused the Congress to enact the Taft-Hartley Act,\(^3\) an amendment to the NLRA, which, among others things, classified certain union activities as unfair labor practices.

In the late 1950s, the Senate Committee on Government Operations set out to study the efficiency of government operations, particularly, of procurement. The committee found evidence of "certain union-racketeer cooperation and false union reporting."\(^4\) In 1956, Robert Kennedy, counsel to the Senate Permanent Subcommittee on Investigations, and his staff "uncovered evidence of gross misuse and misappropriation of funds by union officials in the various local chapters of the Teamsters Union."\(^5\) In 1957, as


a result of these findings, the United States Senate created the Select Committee on Improper Activities in the Labor or Management Field.

This Select Committee, which was known as the McClellan Committee after its chairman, originally consisted of Senators McClellan, Ives, Kennedy, McNamara, McCarthy, Ervin, Mundt, and Goldwater. It was directed to conduct an investigation and study of the extent of criminal or other improper practices are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees or employers to the detriment of the interests of the public, employers or employees, and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities.

During 1957, 1958, and 1959, the McClellan Committee held 270 days of hearings, questioned 1,526 witnesses, and compiled a total of 46,150 pages of testimony. While the initial activities of the committee dealt with union abuses, "it soon became apparent that management abuses also existed to an alarming extent." Some of the latter abuses consisted of management's use of "middlemen" or consultants to make "payoffs to high union officials" or "to provide labor spies or to keep employees from organizing or to induce them to

---


8 Beaird, 269.

9 Beaird, 270.
form or join company favored unions through such deceptive practices as 'spontaneous employee committees.'\textsuperscript{10}

The findings of the McClellan Committee resulted in the introduction of a number of bills designed to address the abuses highlighted during the hearings. The Kennedy-Ives bill, S.3974, was introduced in 1958, passed the Senate by a vote of eighty-eight to one, but ran into trouble in the House, where it was defeated. In the 86th Congress, Senators Kennedy and Ervin introduced S.505, a bill similar to the Kennedy-Ives bill; Senator Goldwater introduced S.748; Representative Barden introduced H.R.4473, and Senator McClellan introduced S.1137. These proposals contained different approaches to the issues of controlling consultants, especially attorneys who, many argued, should be exempt from any reporting obligation because of the attorney-client privileged relationship.\textsuperscript{11}

Following hearings of the House Labor Committee, Representatives Landrum of Georgia and Griffin of Michigan introduced H.R.8400, which passed the House on August 13 and 14, 1959. The Senate-House conference committee hammered out compromises between H.R.8400 and the Senate bill; and the conference bill, which has been known ever since as the Landrum-Griffin Act, was passed by the Senate on September 3, 1959, and by the

\textsuperscript{10} Beaird, 270.

\textsuperscript{11} Beaird, 272-80.
House on the following day. It became law on September 14, 1959,\textsuperscript{12} when it was signed by President Eisenhower.

Alternatives were considered with respect to controlling the use of labor relations consultants. Craver reports that

instead of suggesting a statutory prohibition against antilabor proselytizing activities by hired company representatives—an alternative that would certainly have raised substantial free speech questions—the Committee determined that the use of public reporting would best accomplish the desired result. The Committee implicitly recognized that employers had the protected right to retain consultants to provide them with assistance during union organizing campaigns, but it definitely thought that the details of such arrangements should be publicly disclosed. This would apprise affected employees of the generally biased nature of such management agents, while simultaneously acting as a deterrent against questionable conduct by those individuals.\textsuperscript{13}

\textsuperscript{12} Beaird, 272-80.

\textsuperscript{13} Craver, 607.
Aaron,\textsuperscript{14} Beaird,\textsuperscript{15} and Farmer and Powers,\textsuperscript{16} among others, review the transcript\textsuperscript{17} of these hearings and describe the intent of Congress in framing the reporting obligations of labor relations consultants.

\textbf{U.S. Department of Labor Records}

The U.S. Department of Labor, Office of Labor-Management Standards (OLMS) has the responsibility for maintaining among other things,\textsuperscript{18} maintaining the reports filed by labor relations consultants and by the companies that employ them. Generally speaking, any employer who makes a payment to a union or union officer or enters an agreement related to certain labor relations activities\textsuperscript{19} must file a Form LM-10\textsuperscript{20} with the


\textsuperscript{15} Beaird, \textit{The Georgetown Law Review}, 269.


\textsuperscript{19} LMRDA § 203(a) 29 U.S.C. § 433 (1988).

\textsuperscript{20} 29 CFR § 405.3 (1989).
Department of Labor. A labor relations consultant who engages in persuader activity must file a Form LM-20,\textsuperscript{21} Agreement and Activities Report, with the Department of Labor within thirty days after entering into an agreement or arrangement to engage in persuader activity. The same labor relations consultant must also file a Form LM-21,\textsuperscript{22} Receipts and Disbursements Report, with the Department of Labor within ninety days after the end of the fiscal year.

There are now more than 20,000 pages of forms LM-10, LM-20, and LM-21 reports on file with the Office of Labor Standards Reporting Compliance in Washington, D.C. This office also has the responsibility to issue administrative guidelines and rules for the preparation and submission of required reports, to monitor compliance with these rules and guidelines, and to prepare summary statistical reports.\textsuperscript{23} Copies of forms LM-10, LM-20, and LM-21, along with official instructions for the completion of each, are included in appendices C, D, and E, respectively.

\textbf{Books and Articles}

A number of books and articles have been written about labor relations consultants and their reporting obligations. Many of these articles which have been published in law reviews and other journals, focus on the

\textsuperscript{21} 29 CFR § 406.2 (1989).
\textsuperscript{22} 29 CFR § 406.3 (1989).
\textsuperscript{23} 29 CFR § 404.2 (1989).
relationship between mandated reports and the privilege of the attorney-client relationship. Two articles are especially instructive because they involve quantitative studies of specific samples. The Craver study examines the degree to which a group of attorneys, members of the Labor Relations Law Section of the American Bar Association (ABA), say they comply with reporting obligations. The Lawrence and Williams study, cited above, examines the transcripts of the National Labor Relations Board’s administrative law judges in California to identify reportable activity by labor relations consultants named in unfair labor practice claims.

Craver Study

The Craver study is widely cited and represents the only identified empirical analysis of how practitioners who should know about the reporting obligations under Landrum-Griffin (including those obligations associated with persuader activity, in this case, attorneys who are also members of the Labor Relations Law Section of the American Bar Association), understand and deal with those obligations. Craver discerned two critical trends from the responses to his research questionnaire:

- the first concerns the substantial number of lawyers who admitted having engaged in reportable conduct during the five years antedating the study without having filed the requisite reports. The second pertains to the shocking lack of knowledge

---

24 Craver, Northwestern University Law Review.
displayed by the respondents with respect to their legal obligations under the LMRDA.

The first trend is based on the responses of the 106 of 164 respondents, who acknowledged some reportable activity (not necessarily persuader activity) within a five year period. The most frequently acknowledged reportable activity was "the solicitation of information from supervisory personnel regarding the union sentiments (question 13) and organizing activities (question 14) of workers." The next most frequently acknowledged reportable activity "involved direct communications with employees endeavoring to persuade them either to refrain from engaging in lawful economic strikes or to support the acceptance of bargaining proposals made by employer-clients." The least frequently acknowledged reportable activities were "efforts aimed at inducing employees to report on the statutory protected behavior of other workers" and "direct communications with

25 Craver, 625.

26 Craver, 625.

27 Craver, note 108, 625. Note, however, that the questionnaire items, themselves more clearly describe the reportable activity involved: "(13) [p]ersonally asked supervisors of an employer-client to discover and report on the number of employees who support or oppose a union organizing effort . . .," 634 and, "(14) [p]ersonally asked supervisors of an employer-client to observe and report on the statutorily protected activities of employees during a union organizing campaign . . .," 634.

28 Craver, 634.

29 Craver, 634.
workers by mail, telephone, or personal home visits explaining why they should withhold their support from ongoing unionization drives.\textsuperscript{30}

The basis for the second trend is the fact that more than 80 percent of the respondents to Craver's survey "expressed their belief that reports were not required under at least some circumstances where they clearly were."\textsuperscript{31} Further, Craver found that

although such divulgence has absolutely no impact upon an attorney's obligation to file reports covering such activities, twenty-three individuals responded that while reports were necessitated where their agency relationship was not divulged, none would be required if full disclosure were made.\textsuperscript{32}

Craver places the blame for these two trends on the attorneys themselves, because "ignorance of the law does not excuse one's failure to comply,"\textsuperscript{33} and the Department of Labor because it "has not affirmatively endeavored to apprise labor practitioners of the obligations they have under the consultant reporting provisions." He concludes by recommending an amendment to Section 203 of the LMRDA that would eliminate any reporting obligation for any "employer or other person who is a member in good standing of any state bar . . . where the affected employees are expressly apprised of the fact that such person is acting as the representative of the

\textsuperscript{30} Craver, 634.
\textsuperscript{31} Craver, 626.
\textsuperscript{32} Craver, 626.
\textsuperscript{33} Craver, 626 and 627.
employer at the time of his conduct."\textsuperscript{34} Citing overwhelming support from his survey respondents, Craver also urges a change in the LMRDA that would reduce the information that an attorney would have to report in a form LM-21 and would no longer have to report disbursements associated with clients for whom no reportable activity was performed, but report "only the financial aspects of their professional relationships with those employer-clients for whom any [reportable] services are performed and not for other management clients."\textsuperscript{35}

Craver's conclusion that there are "persuasive reportable endeavors undertaken by management attorneys who have either purposely ignored their reporting obligations or failed to comply due to their lack of knowledge regarding the area"\textsuperscript{36} is widely accepted.\textsuperscript{37}

**Lawrence and Williams Study**

Lawrence and Williams\textsuperscript{38} also cite Craver's study and, within the context of their study, confirm Craver's conclusion. The methodology they employ is interesting. They identify labor relations consultants (and

\begin{itemize}
  \item \textsuperscript{34} Craver, 629.
  \item \textsuperscript{35} Craver, 630.
  \item \textsuperscript{36} Craver, 631.
  \item \textsuperscript{37} See, for example, the prepared statement of Alan Kistler, *Pressures In Today's Workplace*, 34, 35.
  \item \textsuperscript{38} Lawrence and Williams, *New Labor Review*.
\end{itemize}
employers) who have engaged in reportable activity, including persuader activity, by reviewing the transcripts of unfair labor practice hearings and checking the labor relations consultant so identified against the actual forms filed with the U.S. Department of Labor. Lawrence and Williams read summaries of transcripts of all unfair labor practice hearings held before NLRB administrative law judges in the Board’s Regions 20 (Northern California), 32 (Central California and Northern Nevada), 31 (Southern California) from 1975 to 1981.39

From this analysis, which involved 1,027 unfair labor practice charges, and counting a case as reportable only "where the activity unambiguously fell under the Department of Labor’s own guidelines,"40 they found 107 instances of reportable activity by employers and 35 by consultants.41 These numbers decreased to 106 and 28, respectively, when duplicate names were removed.42 Of these, only 4 consultants and 1 employer had filed any report with the Department of Labor during the years 1974 through 1980.43

Whereas the Lawrence and Williams finding that there is wide-spread lack of reporting compliance by labor relations consultants is not unexpected,

39 Lawrence and Williams, 9.
40 Lawrence and Williams, 9.
41 Lawrence and Williams, 10.
42 Lawrence and Williams, 10.
43 Lawrence and Williams, 10.
their finding with regard to the perceived rate of change of non-compliance is.

They report:

contrary to our expectations, these data show no clear trend towards an increase in the total volume of reportable activity by either consultants or employers during the period studied. Between 1975 and 1981, the incidents of reportable activity by consultants each year fluctuated in a narrow range from 3 to 6, at a time when the total number of Administrative Law Judge decisions per year remained fairly static. Similarly, the number of employer acts ranged from 10 to 25 per year, with no clear trend over the period examined. These data appear to contradict other, more impressionistic, evidence that union busting activity is on the rise.44

Six years is a relatively short time in which to discern a trend. Although the authors suggest several possible explanations for this apparent contradiction,45 the finding is unusual in a literature that appears to accept as axiomatic ever more frequent and more effective labor relations consultant activity.

Decisions of Courts and Administrative Bodies

Although there have been surprisingly few court decisions related to the reporting obligations of labor relations consultants who engage in persuader activity, several are instructive. Three key areas examined in these cases are (1) the ability of a party other than the Secretary of Labor to force reporting compliance in the courts, (2) an understanding of what constitutes

44 Lawrence and Williams, 12.

45 Lawrence and Williams, 12.
reportable persuader activity, and (3) the obligation to report about clients
other than those for whom persuader activity was performed.

Price v. Wirtz

A labor relations consultant who engages in persuader activity and
receives payment must file two forms with the U.S. Department of Labor:
form LM-20, Agreement and Activities Report, and form LM-21, Receipts and
Disbursements Report.46 The Receipts and Disbursements Report must
contain a statement of the consultant’s

(A) receipts of any kind from employers on account of labor
relations advice or services, designating the sources thereof, and
(B) disbursements of any kind, in connection with such services
and the purposes thereof. In each case such information shall be
set forth in such categories as the Secretary may describe.47

In the early 1960s, the Secretary of Labor attempted to compel certain
Florida attorneys who had engaged in persuader activity on behalf of four
clients to file reports. The attorneys asked the court to declare that they
were not obligated to file reports because their activity fell under the “advice"
and “attorney” exemptions. The U.S. District Court, Southern District of
Florida, ruled that the attorneys were not required to file the reports.48
The U.S. Court of Appeals, Fifth Circuit (New Orleans), in part, reversed this
decision, ruling that

46 See notes 20 and 21 and accompanying text, chapter I.
as to each persuader arrangement, the Appellees must report the name of their client, the receipts and disbursements pursuant to such arrangements, and the general nature of their activities on behalf of these clients. These activities cannot be considered as confidential information communicated from the clients to Appellees.  

However, the court disagreed with a Fourth Circuit decision and a decision of the U.S. District Court, Northern District of Texas, pending appeal before another panel of the Fifth Circuit, both of which held that attorneys who had performed persuader activity "also had to file annual reports as to labor relations services to clients for whom they performed no persuader activities" and ruled that annual reports were not required. The decision determined that

a contrary conclusion would mean that when an employer retains an attorney solely to perform nonpersuader activity (e.g., giving advice or representation in court proceedings) and when that attorney subsequently engages in persuader activities on behalf of another employer, the attorney's nonpersuader arrangement with the first employer would be subject to complete disclosure. In the Court's view the purpose of the reporting requirements, as revealed in the legislative history, do not justify such a harsh result.

The U.S. Court of Appeals, Fifth Circuit (New Orleans), "because of the importance of the question, internal differences within the Court, and a

---

49 Wirtz v. Fowler, 372 F.2d 315 (5th Cir. 1966), 63 L.R.R.M. 2345 and 2346.


51 63 L.R.R.M. 2346.

52 63 L.R.R.M. 2346.
conflict between Fowler and the Fourth Circuit's decision in Douglas.

... put the Price case before the Court en banc. The court stated that "after full consideration of the issues involved, we now reject our earlier position in . . . Fowler and adopt the view taken by the Fourth Circuit in Douglas." The court explained:

It boils down to this. As long as the attorney limits himself to the activities set forth in §203 (c), he need not report. Engaging in such advice or collective bargaining does not give rise to a duty to report. No report is set in motion 'by reason of' his doing those things. What sets the reporting obligation in motion is performing persuader activities. Once that duty arises, § 203 (c) does not insulate from reporting the matters in § 203 (b) for non-persuader clients.

Thus, the decision in Price v. Wirtz confirms that a labor relations consultant who engages in persuader activity for one client must report that activity in his annual Receipts and Disbursements Report as well as all other "labor relations advice or services" performed for every other client, whether persuader activity was performed or not for such other client.

---

56 71 L.R.R.M. 2355.
57 71 L.R.R.M. 2357.
Donovan v. Master Printers Association

Donovan v. Master Printers Association\(^5^9\) also examines the obligation of a labor relations consultant who engages in persuader activity on behalf of one or more clients to file an annual report listing the details of labor relations advice or services to all clients. The facts follow.

The Association is a trade organization made up of about 800 non-union printers. In 1976, an officer of the Association made three separate speeches directly to the employees of three Association members. The Secretary of Labor viewed these speeches to be persuader activity and ordered that reports be filed in regard to the three employers. Additionally, "the Secretary ordered the Association to report the names and disbursements records of all other employers who had received labor relations advice regardless of whether they received persuader services."\(^6^0\) The Association provided the three reports but refused to provide the required data on other employers. The U.S. District Court, Northern District of Illinois, "ordered [the Association] to comply with the Secretary’s request to produce the required LM-21 form within 30 days."\(^6^1\)

On appeal, the U.S. Court of Appeals, Seventh Circuit (Chicago), said, in part, "Accordingly, we affirm and adopt the excellent opinion of the district

\(^{5^9}\) 532 F.Supp.1140, 109 L.R.R.M. 3215-3226.

\(^{6^0}\) 109 L.R.R.M. 3217.

\(^{6^1}\) 109 L.R.R.M. 3226.
court." With this decision, the Seventh Circuit joined the Fourth and Fifth Circuits in the interpretation of this issue.

The Sixth Circuit joined the others with its decision in Humphreys. Hutcheson & Moseley v. Donovan in which two partners engaged in persuader activity on behalf of one client and then disputed the claim of the Secretary of Labor that they must report even with regard to those clients for whom they performed no persuader activity. However, the Eighth Circuit in Donovan v. Rose Law Firm, a case involving substantially the same situation as that in Humphreys. Hutchenson & Moseley v. Donovan, ruled differently:

We have difficulty perceiving the compelling governmental interests to be served by the reporting of all receipts and disbursements related to any labor relations advice given to or services performed for clients for whom a consultant has not performed persuader activity.

Thus, the Fourth, Fifth, Sixth and Seventh Circuits have adopted the view of the Secretary of Labor that the reporting obligation of labor relations consultants who engage in persuader activity on behalf of one client extends to those clients for whom no persuader activity was performed, even if the

---


63 755 F.2d 1211 (6th Cir. 1985), 118 L.R.R.M. 2770-2779.

64 768 F.2d 964 (8th Cir. 1985), 119 L.R.R.M. 3345-3354, reh'g denied, en banc (8th Cir.), 121 L.R.R.M. 2284.

65 119 L.R.R.M. 3353.
labor relations consultant is an attorney. The Eighth Circuit has taken the opposite view.

Auto Workers v. Dole

The United Auto Workers (UAW), in March, 1982, filed a complaint with the Secretary of Labor alleging that Kawasaki Motor Company and its attorney-consultants, Tate and Sykes, had engaged in reportable activity at Kawasaki's plant in Lincoln, Nebraska; the union later, filed a formal request for enforcement action. The Secretary declined, and the union filed suit in the U.S. District Court, District of Columbia, seeking "to compel [the Secretary] to enforce the employer and persuader reporting and disclosure provisions of the LMRDA against Kawasaki, Tate and Sykes." The court, pointing out that the LMRDA, in Section 210, provides that "the Secretary may bring a civil action for such relief (including injunctions) as may be appropriate," ruled:

that the grant of discretionary authority to the Secretary under section 440 is so broad that there is no law to apply. Accordingly, the Court lacks jurisdiction to review the merits of the plaintiffs' claim because the Secretary's decision not to bring

---


67 115 L.R.R.M. 3274.


69 115 L.R.R.M. 3277 (emphasis in original).
an enforcement action is one committed to agency discretion as a matter of law.\textsuperscript{70}

On appeal, the U.S. Court of Appeals confirmed that "there is no review available from the agency's specific nonenforcement decision in the Kawasaki matter, or its overall pattern of decisions not to pursue enforcement action in these areas,"\textsuperscript{71} but went on to rule that the district court, in correctly deciding on the threshold issue of agency discretion, had failed to go beyond and examine two issues of agency interpretation. The issues were the Department of Labor's decisions to view the "advice" exemption more narrowly and to abandon the "split income" theory.\textsuperscript{72}

In response to the union's contention that Kawasaki and Tate and Sykes had failed to report the attorney-consultant's efforts to "persuade supervisors in the Kawasaki plant to work against unionization, the Secretary held that it was now interpreting such activity to come within the advice exemption of 29 U.S.C. § 433(c)."\textsuperscript{73} The Secretary of Labor stated:

An activity is characterized as advice if it is submitted orally or in written form to the employer for his use, and the employer is free to accept or reject the oral or written material submitted to him . . . Thus, with respect to the consultant, although the law firm advised the employer (including supervisors) regarding anti-union activities during the UAW organizing campaigns, these

\textsuperscript{70}115 L.R.R.M. 3278.

\textsuperscript{71}Auto Workers v. Brock, 783 F.2d 237 (D.C.Cir.1986), 121 L.R.R.M. 2690.

\textsuperscript{72}See note 76 and 77 and accompanying text infra.

\textsuperscript{73}Auto Workers v. Brock, 121 L.R.R.M. 2688.
activities did not constitute persuader activities under the Act, and do not require reports by the consultant.74

This interpretation had the effect of moving a variety of labor relations consultants' activity from where it could be argued to be "indirectly" designed to persuade (and, therefore, subject to the reporting obligations of LMRDA § 203(b)(2), 29 U.S.C. § 433) to the "advice" exemption of LMRDA § 203(c), 29 U.S.C. § 433. No report is required where the labor relations consultants' activity falls under the "advice" exemption.

With respect to the second issue, that "Kawasaki failed to report that it paid supervisors to discourage unionization,"75 the Secretary of Labor pointed out that

early in the administration of the Act it had been considered that a prorated share of regular salaries and wages paid to supervisors or other employees who engaged in conduct referred in sections 203(a)(2) and (3) of the Act, 29 U.S.C. §433(a)(2) and (3), might be reportable by the employer. This was known as the 'split income theory.'76

The Secretary went on to announce that:

given the ambiguity of the language of section 203(e)[77] together with the purpose of the Act to expose hidden amounts of money spent by the employer to convince his employees not to unionize, and given that wage payments are known facts, it is

74 121 L.R.R.M. 2688 (emphasis in original).
75 121 L.R.R.M. 2688.
76 121 L.R.R.M. 2688.
77 See note 32 and accompanying text, chapter I.
the Department's view that employers are not required to report regular wages paid to supervisors and other employees.\textsuperscript{78}

The court ruled that "the plaintiffs may challenge the announced statutory interpretations as arbitrary, capricious, or contrary to law."\textsuperscript{79} It remanded the case to the district court "to consider those challenges."\textsuperscript{80}

The U.S. District Court, District of Columbia, ruled, on remand, that "the Secretary's construction of the Act [regarding both issues] cannot stand."\textsuperscript{81} On appeal, the U.S. Court of Appeals reversed the ruling of the district court.\textsuperscript{82}

The Court of Appeals found that, in regard to the issue of the interpretation of the "advice" exemption,

recognizing the Secretary's right to shape her enforcement policy to the realities of limited resources and competing priorities, and comprehending her ruling on advice to involve no volte face from longstanding statutory definition and interpretation, we reject the challenge to her ruling.\textsuperscript{83}

Concerning the issue of the "split income theory," the court ruled:

\textsuperscript{78} Auto Workers v. Secretary of Labor, 678 F.Supp. 4 (D.C.Cir.1988), 127 L.R.R.M. 2519.

\textsuperscript{79} 121 L.R.R.M. 2695.

\textsuperscript{80} 121 L.R.R.M. 2695.

\textsuperscript{81} Auto Workers v. Secretary of Labor, 678 F.Supp. 4 (D.C.Cir.1988), 127 L.R.R.M. 2519.

\textsuperscript{82} Auto Workers v. Dole, 869 F.2d 616 (D.C.Cir.1989), 130 L.R.R.M. 2801-2805.

\textsuperscript{83} Auto Workers v. Dole, 130 L.R.R.M. 2804.
Once it is recognized that the statute allows room for administrative discretion, the Secretary can move to operational considerations. The Department's analysis of complaints made to the Secretary indicated that 'the split income theory is neither workable nor practicable.' . . . Reporting under the theory would trail NLRB unfair labor practices adjudications, determinations made long after the conduct occurred. The LMRDA is designed to uncover or reveal hidden or undisclosed activities, but the unfair labor practice proceedings would have already placed a spotlight on the facts. Given the Board's remedial arsenal, the Secretary concluded, there is no need for an LMRDA shadow operation.

We find the Secretary's accounting for not applying the split-income theory rational. It is not within our province to second-guess resource allocation and policy judgments she made . . . Accordingly, her ruling survives judicial review.84

Thus, three positions are confirmed by the findings in this case. They are, (1) the Secretary of Labor, alone, has discretion to bring enforcement action under the LMRDA, (2) labor relations activity that involves the oral or written presentation of anti-union material to an employer, where the employer is free to accept or reject such material, falls under the "advice" exemption, and (3) wages or salary paid to supervisors while they engage in activity described in LMRDA §203 (a)(2) and (3) 29 U.S.C. § 433 need not be reported by the employer.

Names of Labor Relations Consultants

Beyond the reports filed with the Department of Labor, there are few sources to identify labor relations consultants. Labor relations consultants

84 130 L.R.R.M. 2805.
are listed in the yellow pages of telephone directories. They are also mentioned in labor relations periodicals and the labor press, e.g., *Daily Labor Review*,\(^{85}\) and publications of the AFL-CIO.\(^{86}\)

Consultants' organizations that appeared to be appropriately titled, identified, in part, from sources such as the *Guide to American Directories*,\(^{87}\) were contacted with a written request for the names of members who were labor relations consultants specializing in "union avoidance" activity. Answers were received from the Association of Management Consulting Firms, Inc. (ACME, Inc.), formerly known as the Association of Consulting Management Engineers; the Professional & Technical Consultants Association (PATCA); and the Institute of Management Consultants, Inc.

---


\(^{86}\) The National Organizing Coordinating Committee of the AFL-CIO publishes two reports, *S.T.I.R.: Statistical & Tactical Information Report* and *Report On Union Busters: RUB Sheet*. Both name labor relations consultants alleged to have engaged in persuader activity, often in the context of a specific representation or decertification campaign.

The PATCA directory\textsuperscript{88} includes only San Francisco area consultants and, in 136 pages describing the specialties of more than 300 individual members, lists only one who includes "union avoidance" or any similar capability in his "consultant’s skill summary."\textsuperscript{89} The ACME, Inc. directory\textsuperscript{90} includes the names of many large, well-known consulting firms, including many of the large accounting firms, e.g., Arthur Anderson, Inc.; Coopers & Lybrand; Ernst & Whinney; and Price Waterhouse. None of the almost 100 firms included list employee relations, union avoidance, or any associated subject in their corporate description. The Institute of Management Consultants, Inc., an organization of more than 2,000 members, did not provide a directory but provided a list of four members who "specialize in labor relations consultation."\textsuperscript{91}

Quantitative Data

A further element of this study is to determine the number of elections, including both representation and deauthorization elections, that have been supervised by the National Labor Relations Board over the life of the


\textsuperscript{89} \textit{PATCA Directory}, 48.


\textsuperscript{91} John F. Hartshorne, Executive Director, Institute of Management Consultants, Inc., to Martin Asdorian Jr., 7 November 1983.
Landrum-Griffin Act; the number of elections won by unions, the number of eligible voters in all elections, and the number of eligible voters in elections won by the unions. This study also determines the number of forms LM-10 filed by employers and the number of forms LM-20 filed by labor relations consultants over the same time span.

The National Labor Relations Board has, for many years, published an annual report that includes an appendix containing charts rich in data related to work of the Board. Data related to supervised elections are presented by industry grouping, geographic area, and numbers of employees involved. The data from the annual report are frequently discussed in the labor press and often in the popular press.

The Bureau of National Affairs, Inc., through its custom research division, BNA Plus, publishes representation election statistics based on information from the N.L.R.B. and its thirty-six regional offices that have been converted from fiscal year to calendar year charts. This material is currently available only as far back as 1985 and is relatively expensive.

---


93 See, for example, "Union Win Rate in NLRB Elections Has Remained Steady Through 1980s," Daily Labor Review, 11 August 1988, B-1.

94 See, for example, BNA Plus, NLRB Representation and Decertification Election Statistics, Washington, D.C.: The Bureau of National Affairs, Inc., March 20, 1990. This report is printed on eleven 8.5 x 11 sheets, single sided, and can be ordered by telephone (800-452-7773) at a cost of $35.00 plus tax and delivery.
Miller provides extensive statistical data on all aspects of the N.L.R.B., much of which has either been taken from the tables found in the annual reports of the N.L.R.B. or derived from these charts. Miller, a former Chairman of the N.L.R.B., broadly addresses the many administrative activities of the N.L.R.B. The quantitative data from the Miller study are especially valuable because the study goes back to fiscal year 1940 and, in some cases, to 1936. It is less valuable for the purposes of this study because it does not include data for fiscal years later than 1979.

The numbers of forms LM-10 and LM-21 filed by fiscal year cannot be developed from a single source, but they can be assembled. The Labor-Management Services Administration published an annual report from which the number of forms LM-10 and LM-20 for the fiscal years 1964

---


96 The U.S. Department of Labor, Labor-Management Services Administration for the years 1964, 1965 and 1966 published a *Summary of Operations* which included a summary table showing the number of a variety of reports filed during the fiscal year. The 1964 report includes data for fiscal 1964 and cumulative data from September 14, 1959, through June 30, 1964.

The U.S. Department of Labor, Labor-Management Services Administration for the years 1967 through 1978 published *Compliance, Enforcement and Reporting in [19XX] Under the Labor-Management Reporting and Disclosure Act*, an annual report (except for years 1976 and 1977, which were included in a single report) and included a summary table showing the number of a variety of reports filed during the indicated fiscal year. No comparable annual report has been published since 1978.
through 1978 can be extracted. Data for the fiscal years 1979 through 1988 have been acquired from the Office of Labor-Management Standards.97

Summary

A review of the literature indicates that no comprehensive study has been conducted regarding the important issue of the reportable activity of labor relations consultants described as persuader activity. Only two published studies involving a quantitative analysis of the reportable activity of labor relations consultants have been identified.

Further, this review indicates that the ability of researchers to examine this issue and related issues utilizing survey techniques is severely limited by the difficulties associated with identifying labor relations consultants, much less, those who engage in reportable activity and, more specifically, in persuader activity.

The courts have resolved issues of who has discretion to bring enforcement action under the provisions of the LMRDA, a clear definition of labor relations consultant activity that falls under the "advice exemption," clarification of the "split income theory," and the obligation of labor relations consultants, including those who are attorneys, who engage in persuader activity to report on clients for whom they performed no persuader activity.

With the resolution of the United Auto Workers case, no significant issues associated with persuader activity are currently under review in the courts.
CHAPTER III

METHODOLOGY

This chapter describes the methodology used in the study. Information about the four samples used is presented along with a description of the variables used to measure the labor relations consultants included in each sample. The questionnaire sent to the members of all four samples is discussed, and the methods of analyzing the data collected with the questionnaire are examined. Additionally, the collection and analysis of historical data from both the National Labor Relations Board and the Labor-Management Standards Administration/Office of Labor-Management Standards Office are described.

Research Design

This study utilizes a non-experimental, descriptive method of research and, to a lesser extent, what Buckley\(^1\) refers to as archival research. Emory\(^2\) describes the three objectives of descriptive studies as "(1)


\(^2\) C. William Emory, Business Research Methods, 3d ed. (Homewood, IL: Richard D. Irwin, 1985), 68.
descriptions of phenomena or characteristics associated with a subject population, (2) estimates of the proportions of a population that have these characteristics, [and] (3) discovery of association among different variables."

The data were collected through the use of a mail questionnaire sent to labor relations consultants known to have engaged in persuader activity and those considered likely to have engaged in such activity. The questionnaire was accompanied by a cover letter, but not by a pre-addressed return envelope.

Key to the study is the archival research element. From the primary archival domain are the names and addresses of labor relations consultants known to have engaged in persuader activity. These were extracted from documents filed with the U.S. Department of Labor over a period of almost thirty years. From the secondary archival domain are the fiscal year data on the numbers of N.L.R.B. elections, eligible voters and forms LM-10 and LM-20 filed over the same thirty-year period.

**Sampling Design**

Emory discusses the advantages of taking a sample rather than taking a census and asks, "Why should we spend thousands of dollars interviewing

---

3 Emory, 68.
4 Buckley, 25.
5 Buckley, 25.
6 Emory, 276, 277.
all 4,000 employees in our company if we can find out what we need to know by asking only a few hundred?" This study did not involve the circumstance in which a sub-group of a finite and homogeneous population could be surveyed and the results used to draw reasonable inferences about the total population.

In this study, all members of four groups of labor relations consultants who were known to have or could reasonably be believed to have engaged in persuader activity were surveyed. Post-archival research analysis indicated that the list of names and addresses obtained from each of the four groups was approximately the same size, in the aggregate (especially after removing duplication), and was a feasible number. It also indicated that there was a significant flaw in the list from each group.

Other researchers will certainly find other groups that could reasonably be added to the four examined in this study. The Lawrence and Williams study, discussed above, describes a methodology that would generate an additional group of labor relations consultants who could reasonably be believed to have engaged in persuader activity, i.e., labor relations consultants who have been identified in unfair labor practice hearings as having engaged in reportable activity. This methodology parallels that employed in developing the RUB/S.T.I.R. group actually used in this study, but would

7 Emory, 276, 277.
require extraordinary resources if the transcripts of all unfair labor practice hearings held over almost thirty years were evaluated.

Other specific samples are presumed to exist. It is assumed, for example, that trade associations, especially in industries that may be subject to heavy union organizing pressures, have lists of labor relations consultants that are supplied to member companies facing or anticipating union organizing activity. It is not likely that a researcher would have access to these lists.

It is also believed that lists of labor relations consultants who could reasonably be presumed to engage in persuader activity could be developed from a number of other sources. Such sources would include the customer lists of the marketers of anti-union films and tapes, anecdotal surveys of senior investigative field staff and administrative law judges of the N.L.R.B., and an anecdotal survey of senior staff of a number of well-established labor relations consultants. The potential of each of these groups was assessed in conjunction with this study, and a judgment was made that the incremental value of each, beyond the four groups selected, did not justify the time, effort, or cost estimated to be involved.

**Samples**

One of the most significant features of this study is that it deals not with those who have the potential to function as labor relations consultants who engage in persuader activity, but rather with those who are known to
have or are likely to have engaged in such activity. This is an important
distinction. The members of many groups have the potential to function as
labor relations consultants or labor relations consultants who engage in
persuader activity, e.g., retired managers of labor relations, retired union
officials, the managers of labor relations employed by other companies, former
or retired public officials or attorneys who either have a personal interest in
labor relations or whose firms have such an interest. Craver, in the spring
of 1977, utilized a sample of "590 attorneys who were then serving as
management representatives on various committees of the Labor Relations
Law Section of the American Bar Association (ABA)." He further
described this sample in an explanatory note:

The names and addresses of these people were easily obtained
from the Labor Relations Law Section Directory. Although this
obviously limited the focus of the study somewhat, it was
believed that this was not unreasonable. Many of the active
labor attorneys serve on the various section committees, and
those participants generally represent a cross-section of such practitioners.

---

8 Check lists and "how to" guides are available for conducting a union
avoidance campaign. See, for example, Charles A. Powell III, "The Election
Campaign: What to Say and Some Ways to Say It," in Thomas P. Schnitzler,
Legal Aspects of Union Organizational Campaigns, Corporate Law and
Practice, Course Handbook Series, no. 190, (New York: Practising Law
Institute, 1975): 101-68 and William E. Sizemore, "Analysis of a Management
Campaign," in Oversight Hearings on Landrum-Griffin Act, 836-47.

9 Craver.

10 Craver, 608.

11 Craver, 608.
Craver undertook his research project "for the purpose of meaningfully analyzing the degree to which covered parties actually comply with the reporting regulations which apply to their labor consultant arrangements and activities."\(^{12}\) He decided that "it would be more feasible to focus entirely upon the practices of the labor relations consultants themselves,"\(^{13}\) thereby excluding all employer activity and employer reports.

Craver further limited his examination;

In recognition of the fact that an empirical assessment of labor relations consultants generally would necessarily have been prohibitively expensive and unduly burdensome, it was determined that the study would concentrate only upon those activities engaged in by management labor attorneys.\(^{14}\)

In developing the list of those to whom, for the purposes of this study, a research questionnaire would be sent, Craver's methodology was considered. A copy of the 1989-1990 membership directory\(^ {15}\) of the Labor and Employment Law section of the American Bar Association was obtained. The individual listings in the section "Alphabetical Roster of Members," contain a name, mailing address, and telephone number and, in many cases, a brief corporate or firm affiliation indicator, e.g., "Xerox Corp.," "Peper Martin Et Al," "Haynesworth Baldwin Et Al," etc. No listing contains an interest, e.g.,

\(^{12}\) Craver, 607.

\(^{13}\) Craver, 608.

\(^{14}\) Craver, 608.

"management," "neutral," "public," or "union" indicator, although these indicators are used in the directory's first section, in the listings of the members of the administrative and standing committees, but not in the listings of those serving on special committees.\(^{16}\)

Only fifty-five names are clearly identified as the management member or the management council liaison and alternative to these committees, and some of the names appear more than once.\(^{17}\) Further, while it might be reasonable to assume that the management co-chair and two council liaisons and alternates to the Standing Committee on Practice and Procedure under the National Labor Relations Act should have knowledge of reporting obligations under the Landrum-Griffin Act, it might not be reasonable to assume that the management co-chairs, council liaisons and alternates to the Standing Committees on Railway and Airline Labor Law, State Labor Law Development, Unemployment Insurance Law, Workers' Compensation or Immigration Law have comparable knowledge.

Further, Craver, himself an attorney,\(^{18}\) has focused only on attorneys and has not considered the portion of the non-attorney population of labor relations consultants who engage in persuader activity. It is clear that if

\(^{16}\) American Bar Association, xii to xxii.

\(^{17}\) American Bar Association, xii to xiii.

\(^{18}\) The brief biographical note in the Craver article, 605, states: "Professor of Law, University of California, Davis; B.S., Cornell University, 1967; M. Ind. & Labor Rel., Cornell University School of Industrial and Labor Relations, 1968; J.D., University of Michigan, 1971."
Craver's recommendations were adopted, non-attorney practitioners would continue to be bound by the current, more stringent, reporting obligations and would, therefore, be at a significant disadvantage.

Thus, it appears that it is not appropriate to replicate the Craver sample. Additionally, whereas there are certainly some members of the ABA Section of Labor and Employment Law who are labor relations consultants and labor relations consultants that engage in persuader activity, they cannot be easily identified. To accept a randomly or arbitrarily selected group of members of this Section as a surrogate for those members who are labor relations consultants and/or labor relations consultants who engage in persuader activity does not seem reasonable. The Craver approach is, therefore, rejected, and efforts are made to identify those who actually engage in persuader activity or who could reasonably be said to engage in persuader activity.

This threshold issue of identifying the names of the labor relations consultants to whom a research questionnaire could be sent was daunting. It was expensive and burdensome, but not prohibitively so. The research questionnaires were to be sent only to those who were labor relations consultants, i.e., who were identified by others as labor relations consultants, or who held themselves out as labor relations consultants.

Using this approach, four groups of labor relations consultants were preliminarily identified: those who had self-identified as having engaged in
persuader activity by having filed a form LM-20 or LM-21; those who had been identified by employers as having engaged in persuader activity in a form LM-10; those who held themselves out to the public as being labor relations consultants; and those viewed by organized labor as being labor relations consultants. Each of these groupings or samples generated a list of labor relations consultants.

Each of these samples, for the purposes of this analysis, has been labeled for convenience. The LM-10 and LM-20/LM-21 samples are distinct but discussed together because they were developed in a similar fashion. The sample of the labor relations consultants who self-identified is referred to as the yellow pages sample, and the sample developed from those viewed by organized labor as labor relations consultants is referred to as the RUB/S.T.I.R. sample.

Yellow Pages Sample

Initial reviews of published material developed only a few individuals or firms that could be considered as having held themselves out as labor relations consultants. Further research determined that the yellow pages

---

19 See, for example, the advertisement of H.R.S. Inc. in Personnel Administrator June 1989, 189. This ad states, in part:

"When the union knocks . . . it's too late to ask 'What do I do?' Just Another Empty Promise is a 19-minute program depicting how unions will use employee organizers to promise whatever it takes to get a membership card signed. Employees need to know what to do when confronted with union pressure. It also shows what happens to an employer who almost waits too long to let his employees know the company's position on unions."
telephone directory included a heading "labor relations consultants." This discovery led to a search for libraries with collections of yellow pages directories, which in turn, lead to firms publishing yellow pages on microfiche. This led to a commercial house, American Business Lists, that in late 1989 supplied a list of the 427 names and addresses extracted from the labor relations consultant heading (SIC code 7392Y) in almost 5,000 yellow page directories across the country.

The data were provided on computer disks and was loaded on a Macintosh II personal computer using a data base manager, FileMaker II. In this form, the data could be sorted and combined with data from the other three samples. For the purpose of this study, the American Business List data were flawed in one respect.

Included in the names extracted from the yellow pages were those that clearly were not labor relations consultants who would be employed by

Mail promotional pieces sent by publishers, organizations or individuals also identified a very small number of possible labor relations consultants. Included in this group are: Merrimack Films, distributor of Union Democracy; Abbott, Langer & Associates, distributor of The Deunionizing Handbook; Whiting & Associates, "Union Awareness Workshop"; Robert B. Pearlman & Associates, "Winning Union Campaigns"; Southern Employee Relations Associates, "Supervising the Union-Free Workplace: A Pro-employee Approach"; International Training Company, "Meeting the Union Challenge"; and Wayne Wright (with Charles Hughes and Vince Flowers), "Theory into Practice or Beyond 'How to Be Unionfree'."

20 For example, Bell and Howell, Publications Systems Division, Old Mandfield Road, Wooster, Ohio 44691-9050, (216)-264-6666.

21 American Business Lists, Inc., 5711 South 86th Circle, P.O. Box 27347, Omaha, Nebraska 68127, (402)331-7169.
management to engage in persuader activity. Most included in this category were clearly identifiable as labor unions. Others were clearly not labor relations consultants, and still others were multiple listings of the same organization. When those who were clearly not labor relations consultants who might be employed to engage in persuader activity were deleted, this sample contributed 367 names.

LM-10 and LM-20/LM-21 Samples

Form LM-10 should be filed with the U.S. Department of Labor by any employer who does one of six things, including agreeing or arranging with a labor relations consultant to engage in persuader activity. Similarly, forms LM-20 and LM-21 should be filed with the U.S. Department of Labor by any labor relations consultant who has agreed or arranged to engage in persuader activity and who has made or received payment as a result of that arrangement or agreement.

22 For example, UAW Local 1781, 25130 Southfield Rd., Southfield, MI 48075; Local #72 IB of T, 265 W 14th St., New York, NY 10011; UAW Local 1357 Retirees, 12 S. Main, Canton, IL 61520; and American Postal Workers, 2614 Tulane Ave., New Orleans, LA 70119.

23 For example, American Arbitration Association, 205 W. Wacker Dr., Chicago, IL 60606; Progressive Labor Party, 218 S. Wabash, Chicago, IL 60604; U.S. Federal Mediation Service, 50 Clinton, Hempstead, NY 11550; and American Arbitration Association, 1127 Euclid Ave., Cleveland, OH 44115.

24 For example, Blanning & Baker Associates, 660 J Street, Sacramento, CA 95814; Blanning & Baker Associates, 1300 Market, San Francisco, CA 94102; and Blanning & Baker Associates, Sunland, CA 91040.
The name, city, and state of reporting labor relations consultants was prepared by the U.S. Department of Labor in registers in 1980\textsuperscript{25} and 1987.\textsuperscript{26} Neither register included mailing addresses for the listed labor relations consultants. The name, city, and state of reporting employers, but no information on the labor relations consultants they may have hired, were also published in 1987.\textsuperscript{27}

The filing methodology used by the Labor-Management Standards Administration in the early days and currently by the Office of Labor-Management Standards is to assign forms LM-10 to "employer" or "E" files. An LM-10 from an employer who has not previously filed an LM-10 is assigned the next new "E" file, an "E" followed by a dash and four numeric characters. Similarly, forms LM-20 and LM-21 are assigned to "consultant" or "C" files. An LM-20 or LM-21 from a consultant who has not previously filed a report is assigned to the next new "C" file, a "C" followed by a dash and three


numeric characters. As forms are submitted by employers or consultants for whom files have already been opened, the form is marked with the appropriate file number followed by a dash and a number representing the forms included in the file. Thus, if the form received today is the fifth different form filed by the same employer, it would be marked “E-XXXX-5.”

As of May 31, 1989, the Office of Labor-Management Standards had opened files E-2780 and C-404. This does not mean that there are 2,780 employer files and 404 consultant files. A number of the early files have been destroyed or do not exist. Bradley explains:

In researching the [file] numbers . . . listed as missing, we found that for many file folders still exist. It appears that shortly after the LMRDA was passed letters were sent to consultants requesting a filing. In those early days, file numbers were assigned when the letters were sent, not when a report was received. Some folders contain only an indication of this letter having been sent and that the consultant was in fact not required to file. I conclude that the low-numbered folders which

---

we no longer have were destroyed because of that reason, although a few were retained. We note that the early 'reports' were submitted as letters giving the required information because the forms themselves were not yet available.

On occasion, more than one number was erroneously assigned to the same consultant. When the error was identified, one number was canceled and the documents combined into a single file.29

Because a basic intent of the Labor-Management Reporting and Disclosure Act was to inform the public about the activities of labor relations consultants, forms filed pursuant to the provision of the act have been and are now available to the public.30 With a minor exception, a copy of the contents of all employer and consultant files maintained by the Office of


30 LMRDA § 205 (c), 29 U.S.C § 435 provides, in part: "The Secretary [of Labor] shall by regulation provide for the furnishing by the Department of Labor of copies of reports or other documents filed with the Secretary pursuant to this title [Title II], upon payment of a charge based on the cost of service."

The Freedom of Information Act (5 U.S.C. § 552 and Executive Order 12600) made available to the public much information that was previously treated confidentially. Certain records of the Department of Labor are "public records" and "are available for examination or copying without the submission of a formal request under the [Freedom of Information Act]." (29 C.F.R. § 70.4(d) (1989).

"The following documents in the custody of the Office of Labor-Management Standards are public information available for inspection and/or purchase of copies . . . (1)[d]ata and information contained in any report or other document filed pursuant to sections 201, 202, 203, 211 and 301 of the Labor-Management Reporting and Disclosure Act of 1959." (29 C.F.R. § 70.53(a) (1989).
Labor-Management Standards, U.S. Department of Labor, in Washington, D.C., was acquired.

The contents of the more recent files were acquired first. The contents of the oldest files were ordered in 1989. Yud informed that files C-001 through C-009 contained an estimated 4,836 pages and files E-0001 through E-0999 contained an estimated 17,982 pages. Because of the number of sheets involved, only the most recent form was requested from each of these files. The entire contents of every other file were requested and, presumably, copied and forwarded by the Office of Labor-Management Standards. In the aggregate, some 16,730 sheets from all "E" and "C" files opened between late 1959 and May 31, 1989, were acquired.

Each report was carefully reviewed and those involving persuader activity were separated. Persuader activity was judged to be involved when an employer on form LM-10 had either checked "yes" to Question E.


32 Yud explained in a telephone conversation in mid-1989 that the extraordinary volume in these early files was because forms LM-10, LM-20, and LM-21 that had been developed and used in the early years were multi-page forms unlike the current two sided sheets (see appendices C, D, and E).

33 "During the past fiscal year did you make any agreement or arrangement with a labor relations consultant or other independent contractor or organization pursuant to which such person undertook activities where an object thereof, directly or indirectly, was to persuade employees to exercise or not to exercise, or as to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing or did you make any payment (including reimbursed expenses) pursuant to such an agreement or arrangement?"
section 8, or had provided a narrative in section 12\textsuperscript{34} or in any attachment that indicated that the employed consultant had, during a representation campaign, directly communicated with unit employees, activity that is clearly persuader activity.\textsuperscript{35} Similarly, persuader activity was judged to be involved when a labor relations consultant had checked item 8(a)\textsuperscript{36} on form LM-20 or had provided a narrative in section 10 or in any attachment that indicated that the labor relations consultant had, during a representation campaign, directly communicated with unit employees.\textsuperscript{37}

\textsuperscript{34} "Explain fully the circumstances of all payments, including the terms of any oral agreement or understanding pursuant to which they were made. Attach any additional narrative sheets that are necessary to fully explain the required information."

\textsuperscript{35} For example, the LM-10 dated April 19, 1985, filed by Save More Foods, Inc. (E-2100), 1273 4th Street, NE, Washington, D.C. 20002 indicates that they hired Joel I Keiler, independent labor consultant (attorney) of P.O. Box 3326, McLean, Virginia 22103 to engage in persuader activity and that Keilor had been paid $1,395. The section 12 explanation stated: "The payment set forth above was made to Mr. Keiler for services rendered to Save More Foods during the period from June 1982 through August 1982 during a National Labor Relations Board Election campaign involving Teamsters Union Local 699. Such services involved speaking to Save More's employees as a group about labor law, organizing and the collective bargaining process."

\textsuperscript{36} "(8) Check the appropriate box to indicate whether and object of the activities undertaken, is directly or indirectly: (a) To persuade employees to exercise or not to exercise, or to persuade employees as to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing."

\textsuperscript{37} In an LM-20 dated October 8, 1982 in file C-202, consultant Joel I. Keiler, 2021 K Street, NW, Suite 305, Washington, D.C. 20006, indicated that he worked 8 hours on August 11, 1982, for Savemore [sic] Foods, Inc. 1273 A 4th Street, NW, Washington, D.C. "to persuade employees to exercise or not to exercises [sic], or persuade employees as to the manner of exercising, the right to organize and bargain collectively through representatives of their own
This analysis resulted in a LM-10 sample that contributed the names of 255 labor relations consultants and an LM-20/LM-21 sample that contributed 272 names. Both samples have an inherent flaw. Unlike the yellow pages sample which, for the sake of argument, represents a snapshot at a point in time, the LM-10 and LM-20/LM-21 samples represent a list of names and addresses that have been formulated over almost thirty years. A number of reports did not indicate the consultant's zip code because such codes were not in use when the last document was placed in the file.

An explanation of why although there are approximately 2,780 employer files, only 255 labor relations consultants were identified is appropriate. Many of the forms LM-10 were filed for reasons other than the employment of a labor relations consultant to engage in persuader activity. The employers submitting a surprising number of forms LM-10 had checked question 8(a):

During the past fiscal year did you make or promise or agree to make, directly or indirectly, any payment or loan of money or other thing of value (including reimbursed expenses) to any labor organization or to any officer, agent, shop steward, or other representative or employee of any labor organization? 38

choosing."

In an amended LM-21 dated April 28, 1983, Keiler reported that he received $1,395 from Savemore [sic] Foods, Inc., 1273 A 4th Street, NW, Washington, D.C. under the terms of an agreement or arrangement that terminated August 30, 1982.

38 See appendix C.
An analysis of these non-persuader activity forms LM-10 represents an opportunity for further research.

**RUB/S.T.I.R. Sample**

The final sample includes those considered by organized labor to be labor relations consultants. These names were extracted, almost exclusively, from two publications of the AFL-CIO, the RUB Sheet\(^{39}\) and S.T.I.R.\(^{40}\)

Both publications are printed on 8.5 by 11 inch sheets and are distributed to union organizers all over the country. From its first issue in February, 1979, through the August, 1989, issue, there have been 67 issues of the RUB Sheet, containing, in the aggregate, 670 pages. The S.T.I.R., from its first issue in November, 1980, through the June/July, 1988, issue, has been published 39 times and has contained, in the aggregate, 316 pages. From these pages were extracted the names of all firms and individuals who were clearly identified as having engaged in persuader activity or who, from the context, might arguably have been engaged in persuader activity. Excluded, for example, were those whose activity involved providing security guards

---


during a labor dispute or for surveillance activities,\textsuperscript{41} representing
management during collective bargaining or clearly not persuader activity.\textsuperscript{42}
This review initially resulted in more than 1,000 names. After removing
duplicate listings, this sample contributed 258 names.

The sample extracted from the union literature is also flawed in one
regard. In few instances is the name of an individual or organization that
could reasonably be assumed to have engaged in persuader activity
accompanied by an address. Many did, however, have an indication of home
city or state.

\textsuperscript{41} For example, Alert Network, Inc, "the security firm linked to WCIRA"
\textit{(RUB, March/April 1989, 1)}, Boyd Security Systems, "headquartered in Jersey
City...is licensed to conduct security operations..." \textit{(RUB, August 1983, 5)},
Command Investigation Bureau, Inc., "a security firm..." \textit{(RUB,}
November/December 1985, 11), Guardsmark Corporation, "and 1800-employee
security company located in Memphis..." \textit{(RUB, September 1980, 20),}
Metropolitan Security Services, "a nationwide security firm based in
Timonium, Maryland..." \textit{(RUB, May 1986, 1)}, Nichols and Associates, "the
union busting security firm..." \textit{(RUB, July 1983, 6),} and Parker Corporation,
"a security firm out of Tonawanda, New York..." \textit{(RUB, October 1981, 6).}

\textsuperscript{42} Included in this group are those organizations and individuals named in
association with a seminar, although many of these same individuals and
firms were included in the final sample contribution because of other
citations. For example, Thomas P Krukowski, "who offers seminars on
concession bargaining..." \textit{(RUB, April 1987, 5)} was not included.
Also included in this category are those firms and individuals
associated with the production of films and videos. An example, Devon
Associates "of Chapel Hill, North Carolina produced and is distributing...a
new union busting film...'This is not a Fairy Tale,'" \textit{(RUB, December, 1984/}
January, 1985, 8). However, a real question, not addressed in this study, is
whether the producers, distributors and owners of films and videos shown to
employees in the context of a representational election are "indirectly"
engaging in persuader activity and, therefore, obligated to file forms LM-10,
Sample Limitations

Each of the four samples had a major limitation that carried over into the mailing list of labor relations consultants to whom research questionnaires were sent. The yellow pages sample includes some names and addresses of those who are not even labor relations consultants, much less consultants who engage in persuader activity. The LM-10 and LM-20/LM-21 samples include names and addresses recorded over a period of almost thirty years. The RUB/S.T.I.R. sample does not contain mailing addresses.43

Data Collection

Data were collected by means of a research questionnaire mailed to the 779 (87.8% of 887) labor relations consultants for whom a mailing address believed to be reasonably accurate could be developed. Of this number, 177 (22.7%) were returned as undeliverable. A response of some sort44 was returned by 80 (13.3%) of the 602 labor relations consultants to whom questionnaires were delivered. Of the paper responses, 49 (8.1% of the 602) were judged to be usable. Most of the responses that were not usable were

43 Because so many of the organizations named appeared to be law firms, all were checked in the Matindale-Hubbell Directory. This approach was made more effective because the office of the Editor of the RUB Sheet was able to provide city and/or state locations for a number of the firms whose names had been published without additional information.

44 Including four telephone calls, one from a consultant who had retired and was no longer in business but wanted to share experiences, and three from the spouses or offices of consultants who had died.
from those who were no longer labor relations consultants,\textsuperscript{45} were not labor relations consultants who engage in persuader activity,\textsuperscript{46} or included questionnaires that indicated that only unions were represented or that management had never been represented in a union avoidance situation.

The number of responses that were not usable and the reasons they were not usable, confirm the inherent weaknesses in the four basic samples from which the final mailing list was developed. While efforts were made to make the research questionnaire as non-threatening as possible, the very nature of the business of the labor relations consultants who engage in persuader activity is such that any questions about the business are suspect\textsuperscript{47} and will be ignored or avoided. The focus of this study is the labor relations consultants who are required by federal law to answer questions about their business activity and do not do so. This limitation was highlighted in a preliminary literature review. The firm of noted labor

\textsuperscript{45} For example, "I am returning your questionnaire as Mr. Wilson died in 1985," "I have not performed labor relations work for several years. Sorry I can't help you w/ your survey," and "I'm sorry to inform you of this, but Mr. Thompson died last July so he will be unable to answer your questionnaire."

\textsuperscript{46} For example, "I do not fit the criteria: 'labor relations consultants who represent management clients.' I am the sole owner and employee of a consultancy that works only with trade union clients . . . my correct listing should always be Trade Union Consultant (emphasis in original)," and "We are not labor relations consultants but a law firm. We strictly practice law."

\textsuperscript{47} See note 34, chapter I, dealing with criminal penalties for failure to comply.
relations consultants, A. T. DeMaria,\textsuperscript{48} Clifton Budd Burke and DeMaria, publishes a monthly newsletter titled \textit{Management Report for Nonunion Organizations}, which is frequently mentioned in the literature. In a marginal note to a request for copies of this newsletter, DeMaria responded, "Sorry-My experience is that academia doesn't understand this subject (and never will) and, that information gets distorted. There is no way this information will ever accrue to my benefit. The risk is all downside."\textsuperscript{49}

This limitation was again emphasized in an anonymous response, postmarked from Chicago, Illinois, to the request to complete and return a questionnaire form. The respondent wrote:

Good luck with your research old man but . . . you've really got to be kidding.

In the present climate (union membership down to 16.4\% of the work force), unions have apparently decided that we are to blame for all their problems.

This has resulted in a concerted campaign against so-called 'union busters.' Where this campaign is going is uncertain at this point. Some of us believe they would like to legislate us out of business. (they'll have to change section 8-c of the Act to do that!) In this environment, I seriously doubt that you are going

\textsuperscript{48} See, for example, Randall Poe, "The Lone Ranger of Labor Relations," \textit{Across The Board} (September 1983): 20-29.

\textsuperscript{49} DeMaria undated, handwritten marginal note on the author's letter of August 21, 1988, to DeMaria at his New York City law office.
to get very much cooperation in your study, since many will believe that you are a shill for the AFL-CIO.\textsuperscript{50}

Two forms of the same questionnaire were used. They were identical in every respect, save one, the return address. The return address on the form sent to those labor relations consultants known to have engaged in persuader activity was printed in all upper case (capital) letters. The form sent to all others had a return address printed in both upper and lower case letters. Thus, the returned questionnaires themselves could be sorted by the dichotomous variable that is the basis for the discriminant analysis. A copy of the questionnaire mailed to those labor relations consultants known to have engaged in persuader activity is in appendix F. Also included in appendix F is the fourth sheet of the variant form showing the return address in both upper and lower case letters.

This study also examines the total number of N.L.R.B. administered representation elections for fiscal years 1960 through 1988, inclusive; the number of these elections won by unions; the number of employees eligible to vote in all elections; and those won by unions and the number of forms LM-20 filed in these same fiscal years. Election and eligible voter data were

\textsuperscript{50} Anonymous response postmarked 19 Feb 1990 at Chicago, IL 606 and typed on the reverse of the questionnaire cover letter with the address label cut out. Forty-seven questionnaires were sent to Illinois, including 7 to zip code 60606, with 20 being returned as undeliverable. Only 1 of the 23 questionnaires delivered was returned and that was judged to not be usable. The return address and zip code of the returned questionnaire fall under the commitment of confidentiality.
extracted from tables 11, "types of election resulting in certification cases closed, fiscal year . . .," table 12, "results of union-shop deauthorization polls in cases closed, fiscal year . . .," and table 13 "final outcome of representation elections in cases closed, fiscal year . . .," in annual reports of the N.L.R.B.\textsuperscript{51} Data related to the numbers of forms LM-10, LM-20, and LM-21 are taken from the annual reports of the Labor-Management Services Administration\textsuperscript{52} and other U.S. Department of Labor sources.

\textbf{Variables Employed}

The research questionnaire collected data on fifty-five variables. A list of the variable labels and a definition of each are included in appendix A. In general, data were collected on the following: the business form of organization, i.e., corporation, partnership, etc.; the year the business started; the year in which a change in name, form, or address took place; the nature of the client base and the percentage of business associated with different client types; the percentage of the consultancy’s total business associated with


human resources matters, and, within that segment, the percentage of business associated with particular subject areas; the area(s) of industrial specialization; the number of offices and employees and the location by state of the organization's primary office; the sex, title, and highest educational credential of the organization's six top principals; the sources of union avoidance business; yellow pages categories and publications in which paid advertising is placed; billing basis; number of union-avoidance campaigns in which involved and the percentage won; and whether the consultancy has been named in a form LM-10, filed a form LM-20, or LM-21 or agreed or arranged to engage in persuader activity.

Data Analysis

The statistical procedures applied are discriminant analysis and t tests of the differences comparing sample means. The SPSS-X statistical package, Release 3.0, is used for the analysis.

Discriminant analysis "is a statistical technique which allows the researcher to study the differences between two or more groups of objects with respect to several variables simultaneously."53 This technique is used to study the differences between two groupings of labor relations consultants, those known to have engaged in persuader activity and those whose

involvement in persuader activity is not known, based on an analysis of approximately fifty variables. These variables are called "independent" or "predictor" variables.

In discriminant analysis, "a linear combination of the independent variables is formed,"\textsuperscript{54} and this "is used to assign cases to the groups."\textsuperscript{55} The linear discriminant equation is

\[ D = B_0 + B_1X_1 + B_2X_2 + \ldots + B_pX_p \]

where the X's are the values of the independent variables and the B's are coefficients estimated from the data.\textsuperscript{56} The coefficients are selected so that the scores are similar within a group, i.e., labor relations consultants known to have engaged in persuader activity, but differ as much as possible among the groups.\textsuperscript{57}

In this study, all cases are known to fall into one of two mutually exclusive groups. The expected result from this discriminant analysis is a linear discriminant equation which uses the fewest variables that allow membership in one of the two groups to be predicted.


\textsuperscript{56} Maria J. Norusis, \textit{SPSS/PC+ Advanced Statistics V2.0 for the IBM PC/XT/AT and PS/2} (Chicago: SPSS Inc., 1988), B-6.

\textsuperscript{57} Norusis, \textit{SPSS-X Introductory Statistics Guide}, 189.
The t-test statistics are computed to determine if any statistically significant differences exist in the groups means, where one group consists of the responding labor relations consultants known to have engaged in persuader activity, and the other group consists of those responding labor relations consultants not known to have engaged in persuader activity, of the responses to the predictor variables examined.

**Summary**

Archival research is used to develop four samples of labor relations consultants, some of whom are known to have engaged in persuader activity. A research questionnaire is mailed to the 779 labor relations consultants for whom a mailing address can be constructed. Data from usable returned questionnaires are statistically examined, using discriminant analysis to determine if there is a pattern of variables that will successfully predict inclusion in one of two mutually exclusive groups of labor relations consultants: those known to have engaged in persuader activity and those not known to have engaged in persuader activity.
CHAPTER IV

RESEARCH FINDINGS

This chapter presents the research findings of the study. The statistical analyses performed on the data are discussed in this chapter. The statistical procedures applied are discriminant analysis and $t$ tests of the differences comparing sample means. The SPSS-X statistical package, release 3.0, is used for the analysis.

The research findings are in three areas: those associated with the statistical procedures applied to the information extracted from the returned research questionnaires; those associated with the identification of the labor relations consultants to whom a research questionnaire was sent; and those associated with the examination of data collected over almost thirty years by the National Labor Relations Board, the Office of Labor-Management Standards enforcement, and the Office of Labor-Management-Standards and related to the number of elections supervised by the N.L.R.B.; the number won by unions; the number of eligible voters in these elections; and the number of forms LM-20, Agreement and Activities Report, filed.
Discriminant Analysis

A discriminant analysis was performed on the data collected from labor relations consultants via the mailed questionnaire.

A stepwise method of discriminant analysis that enters and removes variables one at a time on the basis of a specific criteria is utilized, with the variable that minimizes the overall Wilks's lambda being selected.\(^1\) Klecka\(^2\) points out that Wilks's lambda is a statistic which takes into consideration both the differences between groups and the degree to which cases cluster near their group centroid within groups. Further, Wilks's lambda is an inverse statistic with the variable the smallest value selected.\(^3\)

Values of lambda which are near zero denote high discrimination (i.e., the group centroids are greatly separated and very distinct relative to the amount of dispersion within the groups. As lambda increases toward its maximum value of 1.0, it is reporting progressively less discrimination. When lambda equals 1.0, the group centroids are identical (no group differences).\(^4\)

The percentage of cases classified correctly is one indicator of the effectiveness of discriminant analysis.\(^5\) The percentage of cases classified correctly is determined from the "Confusion Matrix," an SPSS-X output that shows, from the predictor variables actually used in the discriminant analysis,

---


\(^2\) Klecka, 54.

\(^3\) Klecka, 54.

\(^4\) Klecka, 39 (emphasis in original).

how many cases are correctly predicted to fall into each of the mutually exclusive groups (in this study, two groups) on which the discriminant analysis is based.\textsuperscript{6}

Klecka emphasizes that the percentage of known cases correctly classified is

the most intuitive measure of discrimination. One should, however, judge the magnitude of this percentage in relation to the expected percentage of correct classifications if assignments were made randomly. If we have two groups, we can expect to get 50\% of the predictions right by pure random assignment . . . Should the classification process yield only 60\% correct predictions between the two groups, the improvement is rather small.\textsuperscript{7}

A number of mathematical requirements and assumptions underlie discriminant analysis. Klecka describes them\textsuperscript{8} and suggests that

"discriminant analysis is a rather robust technique which can tolerate some deviation from these assumptions."\textsuperscript{9}

He continues as follows:

For the researcher whose main interest is in a mathematical model which can predict well or serve as a reasonable description of the world, the best guide is the percentage of correct classifications. If this percentage is high, the violation of assumptions was not very harmful. Efforts to improve the data or use alternative formulas can give only marginal improvements. When the percentage of correct classifications is

\begin{itemize}
  \item[\textsuperscript{6}] Norusis, \textit{SPSS-X Advanced Statistics Guide}, 85.
  \item[\textsuperscript{7}] Klecka, 50.
  \item[\textsuperscript{8}] Klecka, 11.
  \item[\textsuperscript{9}] Klecka, 61.
\end{itemize}
low, however, we cannot tell whether this is due to violating the assumptions or using weak discriminating variables.\textsuperscript{10}

A number of discriminant analyses are conducted using the data collected from the research questionnaires. The first discriminant analysis provides results that are perfect with regard to the correct classification of cases, but are intuitively unsatisfactory because of the number of variables selected.

In this first discriminant analysis, all 54 variables,\textsuperscript{11} are used, with 12 variables failing the tolerance test and the remaining 42\textsuperscript{12} variables used. This analysis resulted in the confusion matrix shown in table 1. Group "0" is the labor relations consultants known to have engaged in persuader activities, and group "1" is the labor relations consultants not known to have engaged in persuader activity.

\textsuperscript{10} Klecka, 62.

\textsuperscript{11} See appendix A for a list and specific definitions of the variables used in the study.

\textsuperscript{12} The 42 variables used are FORM, YRSTART, NAMECHG, ADDCHG, FORMCHG, ORGPHIL, PCTMGT, PCTUNION, PCTOTHER, REPMGT, GROSS, ARBPOR, INVESPOR, BARGPOR, AVOIDPOR, REASPOR, OTHPOR, INDAREA, OFFICES, STATE, SEX1, SEX2, SEX3, SEX4, SEX5, SEX6, DEGREE1, DEGREE2, DEGREE3, DEGREE4, DEGREE5, DEGREE6, REPEAT, REFER, ADVERT, PUBLITY, DIRECT, OTHER, BILLING, CAMPGN, PERSAGRE, and LM10.
TABLE 1
CONFUSION MATRIX, FIRST DISCRIMINANT ANALYSIS

<table>
<thead>
<tr>
<th>Actual Group</th>
<th>No. of Cases</th>
<th>Predicted Group Membership:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Group 0</td>
</tr>
<tr>
<td>0</td>
<td>17</td>
<td>17</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(100%)</td>
</tr>
<tr>
<td>1</td>
<td>32</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(0.%)</td>
</tr>
</tbody>
</table>

Thus, in this analysis, 100.0% of the cases are correctly classified. This result is intuitively unsatisfactory and is based on data that appear to violate one or more underlying assumptions of discriminant analysis. The standardized canonical discriminant coefficients for the 42 variables used in this analysis are shown in table 2.

TABLE 2
STANDARDIZED CANONICAL DISCRIMINANT FUNCTION COEFFICIENTS, 42 VARIABLES IN FIRST DISCRIMINANT ANALYSIS

<table>
<thead>
<tr>
<th>VARIABLE</th>
<th>COEFFICIENT</th>
<th>VARIABLE</th>
<th>COEFFICIENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>FORM</td>
<td>0.80438</td>
<td>SEX2</td>
<td>0.96681</td>
</tr>
<tr>
<td>YRSTART</td>
<td>3.12317</td>
<td>SEX3</td>
<td>1.11599</td>
</tr>
</tbody>
</table>

Klecka (11) indicates that discriminant analysis can utilize "any number of discriminating variables, provided that it is less than the total number of cases minus two." Here, there are 49 cases with 54 discriminating variables entered.

He also cautions (11) that "no discriminating variable may be a linear combination of other discriminating variables." Here, the variable GROSS represents the estimated percentage of the annual gross revenue of the labor relations consultant's organization associated with representing management in labor relations and employee issues. The variables ARBPOR, INVESPOR, BARGPOR AVOIDPOR, REASPOR, SERVPOR, and OTHPOR, in the aggregate, equal 100% of GROSS.
In the second discriminant analysis, the variables are reduced from 54 to 33,\(^\text{14}\) with variables associated with the sex, degree, and title of the second through sixth principal/executive of the labor relations consultant’s organization, among others, including the variable GROSS, being deleted from consideration. Of the 33 remaining variables, the discriminant analysis selected only 16.\(^\text{15}\)

\(^{14}\) The variables included are FORM, YRSTART, NAMECHG, ADDCHG, FORMCHG, ORGPHIL, REPMGT, ARBPOR, INVESPOR, BARGPOR, AVOIDPOR, REASPOR, OTHPOR, INDAREA, OFFICES, STATE, EMPLOYEE, SEX1, DEGREE1, REPEAT, REFER, ADVERT, PUBLITY, DIRECT, OTHER, BILLING, CAMPGN, PCTWIN, PERSAGRE, LM10, TITLE1, PUBS, and YELLPAGE.

\(^{15}\) The variables included at this point are BARGPOR, REASPOR, PERSAGRE, OTHPOR, INDAREA, REPMGT, ADDGHG, EMPLOYEE, ADVERT, FORM, ORGPHIL, DIRECT, OTHER, YELLPAGE, OFFICES, and YRSTART.
This analysis resulted in the confusion matrix shown in table 3. Group "0" is the labor relations consultants known to have engaged in persuader activities, and group "1" is the labor relations consultants not known to have engaged in persuader activity:

<table>
<thead>
<tr>
<th>Actual Group</th>
<th>No. of Cases</th>
<th>Predicted Group Membership:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Group 0</td>
</tr>
<tr>
<td>0</td>
<td>17</td>
<td>16</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(94.1%)</td>
</tr>
<tr>
<td>1</td>
<td>32</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(6.3%)</td>
</tr>
</tbody>
</table>

Thus, the discriminant analysis of these 16 variables correctly predicted the classification of 46 of the 49 grouped cases, a percentage of correct classification of 93.88%. Thus, the null hypothesis that this study tests must be rejected. This standardized canonical discriminant coefficients for the 16 variables used in this analysis are shown in table 4.

<table>
<thead>
<tr>
<th>VARIABLE</th>
<th>COEFFICIENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>FORM</td>
<td>-0.68289</td>
</tr>
<tr>
<td>YRSTART</td>
<td>-0.38156</td>
</tr>
<tr>
<td>ADDCHG</td>
<td>-0.63877</td>
</tr>
<tr>
<td>ORGPHIL</td>
<td>0.35365</td>
</tr>
<tr>
<td>REPMGT</td>
<td>-0.31643</td>
</tr>
<tr>
<td>BARGPOR</td>
<td>0.85408</td>
</tr>
</tbody>
</table>
### VARIABLE COEFFICIENT

<table>
<thead>
<tr>
<th>VARIABLE</th>
<th>COEFFICIENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>REASPOR</td>
<td>0.96606</td>
</tr>
<tr>
<td>OTHPOR</td>
<td>0.50378</td>
</tr>
<tr>
<td>INDAREA</td>
<td>-0.68058</td>
</tr>
<tr>
<td>OFFICES</td>
<td>0.54482</td>
</tr>
<tr>
<td>EMPLOYEE</td>
<td>0.39364</td>
</tr>
<tr>
<td>ADVERT</td>
<td>0.38712</td>
</tr>
<tr>
<td>DIRECT</td>
<td>-0.28981</td>
</tr>
<tr>
<td>OTHER</td>
<td>-0.32515</td>
</tr>
<tr>
<td>PERSAGRE</td>
<td>0.93145</td>
</tr>
<tr>
<td>YELLPAGE</td>
<td>0.37466</td>
</tr>
</tbody>
</table>

Despite this very high percentage, a further set of discriminant analyses was conducted. From a practical point of view, it would be useful to develop a predictive model that could be used to estimate the likelihood of whether a labor relations consultant who could reasonably be believed to have engaged in persuader activity, "ungrouped" case, had filed the required reports. Such a model would have to use variables that could be objectively determined. Data on variables associated income source partitioning (BARGPOR, REASPOR, OTHPOR), or the sources of union avoidance business (ADVERT, DIRECT, OTHER), would not be available. A series of discriminant analyses utilizing arbitrarily established combinations of variables is conducted. The results of these analyses are shown in table 5.

These discriminant analyses demonstrate that the proper classification of grouped cases can be predicted, using various patterns of variables by a percentage of correct classification that exceeds 50%, i.e., random assignment to two groups.
TABLE 5
ADDITIONAL DISCRIMINANT ANALYSES

<table>
<thead>
<tr>
<th>Variables Utilized</th>
<th>Number of Variables</th>
<th>Percent of &quot;Grouped&quot; Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>FORM, YRSTART, ADDCHG, FORMCHG, ORGPHIL, INDAREA, OFFICES, STATE, EMPLOYEE, SEX1, DEGREE1, CAMPGN, PERSAGRE, LM10, TITLE, YELLPAGE</td>
<td>16</td>
<td>75.51</td>
</tr>
<tr>
<td>FORM, YRSTART, ADDCHG, ORGPHIL, INDAREA, OFFICES, STATE, EMPLOYEE, SEX1, DEGREE1, CAMPGN, PERSAGRE, LM10, TITLE, YELLPAGE</td>
<td>15</td>
<td>73.47</td>
</tr>
<tr>
<td>FORM, YRSTART, ORGPHIL, INDAREA, OFFICES, STATE, EMPLOYEE, SEX1, DEGREE1, CAMPGN, PERSAGRE, LM10, TITLE, YELLPAGE</td>
<td>14</td>
<td>75.51</td>
</tr>
<tr>
<td>FORM, YRSTART, ORGPHIL, INDAREA, OFFICES, STATE, EMPLOYEE, SEX1, DEGREE1, PERSAGRE, LM10, TITLE, YELLPAGE</td>
<td>13</td>
<td>75.51</td>
</tr>
<tr>
<td>FORM, YRSTART, ORGPHIL, INDAREA, OFFICES, STATE, EMPLOYEE, SEX1, DEGREE1, LM10, TITLE1, YELLPAGE</td>
<td>12</td>
<td>71.43</td>
</tr>
<tr>
<td>FORM, YRSTART, ORGPHIL, INDAREA, OFFICES, STATE, EMPLOYEE, SEX1, DEGREE1, TITLE1, YELLPAGE</td>
<td>11</td>
<td>57.14</td>
</tr>
<tr>
<td>FORM, ORGPHIL, OFFICES, STATE, EMPLOYEE, SEX1, TITLE1, YELLPAGE</td>
<td>8</td>
<td>69.39</td>
</tr>
<tr>
<td>ORGPHIL, STATE, SEX1, YELLPAGE</td>
<td>4</td>
<td>61.22</td>
</tr>
</tbody>
</table>

T-test Analysis

Table 19, appendix B, contains the results of $t$-tests conducted for each of the 33 predictor variables used in the second discriminant analysis. Using a probability significance of .05, in only five of the 33 predictor variables (ARBPOR, INVESPOR, BARGPOR, REASPOR, and PERSAGRE) do the
group means appear to come from different populations. The first of these variables, ARBPOR, INVEPOR, BARGPOR, and REASPOR, are associated with partitioning the gross annual revenue of the labor relations consultant's organization that comes from representing management in labor relations and employee issues. This suggests that the revenue source mix of labor relations consultants known to have engaged in persuader activity differs from that of labor relations consultants not known to have engaged in persuader activity.

It is the fifth variable, PERSAGRE, that is of special significance. The research questionnaire included question U:

Has your organization reached an agreement or arrangement with a management client where an object thereof, directly or indirectly, was to persuade employees to exercise or not to exercise, or as to the manner of exercising, the right to organize and bargain through representatives of their own choosing?\(^{16}\)

The respondent had the opportunity to mark "yes," "no," or "don't know." The words of the question directly track the wording of the LMRDA;\(^{17}\) to select "yes" is to say that the respondent's organization has engaged in persuader activity. Of the 602 labor relations consultants to whom a research questionnaire was delivered, 215\(^{18}\) (35.7%) were known to

\(^{16}\) Research questionnaire, appendix F.

\(^{17}\) See note 22 and accompanying text infra. See also Form LM-20, Agreement and Activities Report, Section B, Item 8(a), appendix D.

\(^{18}\) Table 20, Questionnaires Delivered, appendix B. All labor relations consultants appearing in the "C" and "E" samples are known to have engaged in persuader activity. The number 215 is the sum of the figures that appear in the column "Number of Labor Relations Consultants In Combination" and the rows in which an "X" appears in the "C" and "E" columns.
have engaged in persuader activity. The research questionnaires sent to these 215 labor relations consultants were coded to convey this fact, but no other information about the respondent. The information conveyed by this code is the basis for the variable PERSUDE, the variable on which the discriminant analyses were "grouped."

Ideally, therefore, the information conveyed by PERSUDE should closely parallel the information conveyed by PERSAGRE. The following demonstrates that it does not. Table 6 shows that the group means, in which Group 0 represents labor relations consultants known to have engaged in persuader activity and group 1 represents labor relations consultants not known to have engaged in persuader activity, differ significantly on the answer to question U.

---

19 Because of the sensitivity of the issues involved, every effort was made to protect the anonymity of respondents. An awkward process was established (see Research Questionnaire Transmittal letter, appendix F) to permit respondents to request aggregate survey results without including a return address with the returned questionnaire. Most respondents did not appear to be as concerned with concealing their identity and included a request for a summary report with the returned questionnaire.

Additional pieces of information returned with every completed questionnaire are the state in which it was mailed and, in most cases, the city from which it was mailed and/or the zip code from which it was mailed or the last four digits of the zip code from which it was mailed. These pieces of information form the basis for the final two columns, "Returned" and "Usable," in table 14.
TABLE 6

Comparison of Group Means on the Variable PERSAGRE
(49 cases)

<table>
<thead>
<tr>
<th>PERSUDE</th>
<th>Number of Cases</th>
<th>Mean</th>
<th>t value</th>
<th>Probability</th>
</tr>
</thead>
<tbody>
<tr>
<td>Group 0</td>
<td>17</td>
<td>1.2941</td>
<td>-2.07</td>
<td>0.047*</td>
</tr>
<tr>
<td>Group 1</td>
<td>32</td>
<td>1.7188</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Statistically significant at least at the p = 0.05 level.

Inspection of the data indicates that 43 of the 49 respondents to question U answered either "yes" or "no." Of these 43, 15 (34.9%) returned research questionnaires coded to indicate that they had engaged in persuader activity; the other 28 (65.1%) had no such indication. Table contains a matrix showing the cases correctly classified.

TABLE 7

CLASSIFICATION MATRIX

<table>
<thead>
<tr>
<th>PERSUDE</th>
<th>Cases</th>
<th>Correctly Classified</th>
<th>Incorrectly Classified</th>
</tr>
</thead>
<tbody>
<tr>
<td>Known persuader activity</td>
<td>15</td>
<td>11</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(73.3%)</td>
<td>(26.7%)</td>
</tr>
<tr>
<td>Persuader activity not known</td>
<td>28</td>
<td>18</td>
<td>10</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(64.3%)</td>
<td>(35.7%)</td>
</tr>
<tr>
<td>Totals</td>
<td>43</td>
<td>29</td>
<td>214</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(67.4%)</td>
<td>(32.6%)</td>
</tr>
</tbody>
</table>

Thus, 4 (26.7%) labor relations consultants known to have engaged in persuader activity reported that they had never entered into an arrangement or agreement to engage in persuader activities. At the same time, 10 (35.7%)
labor relations consultants not known to have engaged in persuader activity indicated that they had entered into an arrangement or agreement to engage in persuader activity.

**Labor Relations Consultants**

The identification of labor relations consultants known to have engaged in persuader activity or who could reasonably be presumed to have engaged in persuader activity is key to this study. The methodology by which the task was accomplished is described above. That methodology identified a total of 1,146 labor relations consultants in the four samples examined. The names in each sample were cross-checked, and where the same labor relations consultant was found in more than one sample, the multiple entries were combined with unique information from any discarded entry retaining in the surviving entry. Thus, the most current address, firm title was retained, as was information on sample membership. This process identified 887 different labor relations consultants, all of whom were either known to have engaged in persuader activity or could reasonably be presumed to have engaged in persuader activity.

The distribution of these 887 different labor relations consultants by sample is found in Table 8. Of the 887 labor relations consultants identified, only 10 (1%) appear in all four samples, whereas 34 (4%) appear in three samples, 159 (18%) appear in two samples, and the vast majority, 682 (77%) appear in only one sample. There is an overlap of 23%; 205 of the 887 labor
relations consultants appear in more than one sample. Further, of the total 1,146 labor relations consultant citations identified, 272 (24%) appear in "C" or LM-20/LM-21 sample, 253 (22%) appear in the "E" or LM-10 sample; 254 (22%) appear in the "R" or RUB/S.T.I.R. sample; and 367 (32%) appear in the "Y" or yellow pages sample.

**TABLE 8**

<table>
<thead>
<tr>
<th>Labor Relations Consultants Appearing In This Combination of Samples:</th>
<th>Number of Labor Relations Within Each Sample</th>
<th>Total In Combination</th>
</tr>
</thead>
<tbody>
<tr>
<td>C</td>
<td>E</td>
<td>R</td>
</tr>
<tr>
<td>-------------------</td>
<td>-------------------</td>
<td>-------------------</td>
</tr>
<tr>
<td>X</td>
<td>X</td>
<td>-</td>
</tr>
<tr>
<td>X</td>
<td>X</td>
<td>-</td>
</tr>
<tr>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>X</td>
<td>-</td>
<td>X</td>
</tr>
<tr>
<td>X</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>-</td>
<td>X</td>
<td>-</td>
</tr>
<tr>
<td>-</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>-</td>
<td>X</td>
<td>-</td>
</tr>
<tr>
<td>-</td>
<td>-</td>
<td>X</td>
</tr>
<tr>
<td>-</td>
<td>-</td>
<td>X</td>
</tr>
<tr>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Totals</td>
<td>887</td>
<td>272</td>
</tr>
</tbody>
</table>

Note: Sample labels indicate labor relations consultants in the indicate samples;

- C = named in forms LM-20/LM-21
- E = named in form LM-10
- R = named in RUB/S.T.I.R.
- Y = named in yellow pages
Further, because the labor relations consultants listed in the LM-10 and LM-20/LM-21 samples are known to have reported or been reported as having engaged in persuader activity, information concerning this attribute for the specific labor relation consultant is carried over into the RUB/S.T.I.R. and/or yellow pages sample. Thus, 349 (39%) of the labor relations consultants are known to have engaged in persuader activity.

While 887 different labor relations consultants are identified, the inherent weakness in the four samples limited the delivery of research questionnaires. The extent of this limitation can be seen in tables 20, 21 and 22, appendix B. First, no reasonable address could be found for 108 (12%) of the different labor relations consultants identified, and research questionnaires were, therefore, sent to the 779 labor relations consultants for whom a reasonable address could be developed. Then, 177 (20%) research questionnaires were returned as undeliverable, leaving a total of 602 (68%) that were actually delivered. Of this number, 80 (13%) resulted in a response of some sort, including 49 (8%) usable research questionnaires.

Table 20, Questionnaires Actually Mailed, demonstrates that no reasonable mailing address could be found for 98 (49%) of the 199 labor

---

20 As mailed questionnaires were returned by the U.S.P.S. as undeliverable, additional steps were taken to find a better address. Any envelope with an addressee appearing to be an attorney or law firm was checked against Martindale-Hubbell. Most returned envelopes were checked against available telephone directories in the Fort Worth Public Library. Better addresses were found for 49 returned research questionnaires. The 177 shown as undeliverable were counted at the end of this process.
relations consultants in the RUB/S.T.I.R. sample. This represented 91% of the 108 labor relations consultants for whom no reasonable address could be found. Table 21, Questionnaires Returned As Undeliverable, demonstrates that 80 (45%) of the 177 questionnaires returned as undeliverable were in the LM-10 and LM-20/LM-21 samples. Table 22, Questionnaires Actually Delivered, demonstrates that the 602 different labor relations consultants represent a total of 784 citations or 68% of the 1,146 total citations associated with the 887 different labor relations consultants identified (table 8) in this study.

Table 9, Percentage of Questionnaires Actually Delivered, demonstrates for each comparable cell in table 8 the percentage of research questionnaires actually delivered.

<table>
<thead>
<tr>
<th>Labor Relations Consultants Appearing In This Combination of Samples:</th>
<th>Number of Labor Relations Consultants In Combination</th>
<th>Labor Relations Consultants Within Each Sample</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>C E R Y</td>
<td></td>
<td>C E R Y</td>
<td></td>
</tr>
<tr>
<td>X - - -</td>
<td>63</td>
<td>63 - -</td>
<td>63</td>
</tr>
<tr>
<td>X X - -</td>
<td>65</td>
<td>65 65 -</td>
<td>65</td>
</tr>
<tr>
<td>X X  X -</td>
<td>67</td>
<td>67 67 67 -</td>
<td>67</td>
</tr>
<tr>
<td>X X  X  X</td>
<td>100</td>
<td>100 100 - 100 100</td>
<td>100</td>
</tr>
<tr>
<td>X  -  X -</td>
<td>70</td>
<td>70 70 70 70 70</td>
<td>70</td>
</tr>
<tr>
<td>X  -  - X</td>
<td>100</td>
<td>100 - 100 - 100</td>
<td>100</td>
</tr>
<tr>
<td>X  -  -  X</td>
<td>50</td>
<td>50 - - 50-</td>
<td>50</td>
</tr>
<tr>
<td>-  X  - -</td>
<td>39</td>
<td>39 - -</td>
<td>39</td>
</tr>
<tr>
<td>-  X  X -</td>
<td>45</td>
<td>45 45 -</td>
<td>45</td>
</tr>
<tr>
<td>-  X  X  X</td>
<td>100</td>
<td>100 100 100 100 100</td>
<td>100</td>
</tr>
<tr>
<td>-  X  -  X</td>
<td>100</td>
<td>100 - 100 - 100</td>
<td>100</td>
</tr>
</tbody>
</table>
Labor Relations Consultants Appearing In This Combination of Samples:

<table>
<thead>
<tr>
<th></th>
<th>C</th>
<th>E</th>
<th>R</th>
<th>Y</th>
</tr>
</thead>
<tbody>
<tr>
<td>50</td>
<td>-</td>
<td>X</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>100</td>
<td>-</td>
<td>X</td>
<td>X</td>
<td>-</td>
</tr>
<tr>
<td>85</td>
<td>-</td>
<td>-</td>
<td>X</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>68</td>
<td>67</td>
<td>60</td>
<td>54</td>
</tr>
</tbody>
</table>

Labor Relations Consultants In Combination

<table>
<thead>
<tr>
<th></th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note: Sample labels indicate labor relations consultants in the indicate samples:

- C = named in forms LM-20/LM-21
- E = named in form LM-10
- R = named in RUB/S.T.I.R.
- Y = named in yellow pages

The percentage of questionnaires delivered to labor relations consultants named in the RUB/S.T.I.R. sample is relatively low, but is not unreasonable in view of the absence of mailing addresses in the two publications. The percentage of questionnaires delivered to labor relations consultants named in the yellow pages sample is relatively high, but is not unreasonable in view of the current nature of the sample's mailing addresses.

Labor Relations Consultant Characteristics

McDonald has suggested that "women union busters are almost unheard of." This thought was the basis for inclusion in the research questionnaire questions dealing first with the sex of labor relations consultants and then with their titles and educational credentials.

---

Table 10 summarizes the research questionnaire responses on the sex of up to the six top principals or executives of the organization of the labor relations consultant respondent. Of the total 163 individuals for whom data are reported, 43 (26.3%) are female.

**TABLE 10**

**NUMBER OF PRINCIPALS BY DESCENDING LEVEL OF ORGANIZATIONAL HIERARCHY (WITH 1ST BEING THE TOP PERSON) AND WITHIN LEVEL, BY SEX AND PERCENT OF TOTAL FOR LEVEL**

<table>
<thead>
<tr>
<th>Sex</th>
<th>1ST</th>
<th>2ND</th>
<th>3RD</th>
<th>4TH</th>
<th>5TH</th>
<th>6TH</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male</td>
<td>46(94%)</td>
<td>27(74%)</td>
<td>19(68%)</td>
<td>9(43%)</td>
<td>11(65%)</td>
<td>8(73%)</td>
<td>120(74%)</td>
</tr>
<tr>
<td>Female</td>
<td>1(6%)</td>
<td>12(26%)</td>
<td>9(32%)</td>
<td>12(57%)</td>
<td>6(35%)</td>
<td>3(27%)</td>
<td>43(26%)</td>
</tr>
<tr>
<td>Total</td>
<td>47(100%)</td>
<td>39(100%)</td>
<td>28(100%)</td>
<td>21(100%)</td>
<td>17(100%)</td>
<td>11(100%)</td>
<td>163(100%)</td>
</tr>
</tbody>
</table>

With regard to the top principal or executive in the organization of each respondent labor relations consultant, 46 (94%) of 47 organizations reporting are headed by males. Females are in the majority only in the ranks of the fourth ranking principal.

Not surprisingly, many attorneys are labor relations consultants. Of the total 176 individuals for whom data are provided, 80 (45.4%) are attorneys. Table 11 summarizes the questionnaire responses on the highest earned academic credential.
TABLE 11

NUMBER OF PRINCIPALS BY DESCENDING LEVEL OF ORGANIZATIONAL HIERARCHY (WITH 1ST BEING THE TOP PERSON) AND WITHIN LEVEL, BY HIGHEST EARNED ACADEMIC CREDENTIAL AND PERCENT OF TOTAL FOR LEVEL

<table>
<thead>
<tr>
<th>Credential (Degree)</th>
<th>1ST</th>
<th>2ND</th>
<th>3RD</th>
<th>4TH</th>
<th>5TH</th>
<th>6TH</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not a H.S. Grad</td>
<td>3(6)</td>
<td>6(15)</td>
<td>0(0)</td>
<td>0(0)</td>
<td>0(0)</td>
<td>0(0)</td>
<td>9(5)</td>
</tr>
<tr>
<td>High School Grad</td>
<td>0(0)</td>
<td>1(2)</td>
<td>3(10)</td>
<td>0(0)</td>
<td>0(0)</td>
<td>0(0)</td>
<td>4(2)</td>
</tr>
<tr>
<td>Associate</td>
<td>0(0)</td>
<td>2(5)</td>
<td>1(3)</td>
<td>3(13)</td>
<td>2(10)</td>
<td>0(0)</td>
<td>8(5)</td>
</tr>
<tr>
<td>Bachelor's</td>
<td>13(27)</td>
<td>9(22)</td>
<td>6(21)</td>
<td>4(17)</td>
<td>4(20)</td>
<td>2(14)</td>
<td>38(22)</td>
</tr>
<tr>
<td>M.B.A.</td>
<td>5(10)</td>
<td>7(17)</td>
<td>1(3)</td>
<td>3(13)</td>
<td>1(5)</td>
<td>4(29)</td>
<td>21(12)</td>
</tr>
<tr>
<td>Other Master's</td>
<td>4(8)</td>
<td>1(2)</td>
<td>3(10)</td>
<td>0(0)</td>
<td>1(5)</td>
<td>0(0)</td>
<td>9(5)</td>
</tr>
<tr>
<td>Law</td>
<td>22(45)</td>
<td>15(37)</td>
<td>14(48)</td>
<td>11(48)</td>
<td>10(50)</td>
<td>8(57)</td>
<td>80(45)</td>
</tr>
<tr>
<td>PhD</td>
<td>2(4)</td>
<td>0(0)</td>
<td>0(0)</td>
<td>1(4)</td>
<td>0(0)</td>
<td>0(0)</td>
<td>3(2)</td>
</tr>
<tr>
<td>MD</td>
<td>0(0)</td>
<td>0(0)</td>
<td>0(0)</td>
<td>0(0)</td>
<td>0(0)</td>
<td>0(0)</td>
<td>0(0)</td>
</tr>
<tr>
<td>Other</td>
<td>0(0)</td>
<td>0(0)</td>
<td>1(3)</td>
<td>1(4)</td>
<td>2(10)</td>
<td>0(0)</td>
<td>4(2)</td>
</tr>
<tr>
<td>Total Reported</td>
<td>49(100)</td>
<td>41(100)</td>
<td>21(100)</td>
<td>23(100)</td>
<td>20(100)</td>
<td>14(100)</td>
<td>176(100)</td>
</tr>
</tbody>
</table>

Table 12 summarizes the questionnaire responses related to the titles of up to the six top principals or executives of each of the reporting organizations. Of the total 156 individuals on whom data are submitted, 29 (18.5%) have the title of president. The title of vice president or vice president in combination with a functional indicator, is held by 30 (19.2%) of those for whom information is submitted. The third largest category, "other," accounts
for 20 (12.8%) of the reported titles. Most titles that applied to a single labor
relations consultant and were in any way unusual were placed in this category
to ensure anonymity.

**TABLE 12**

NUMBER OF PRINCIPALS BY DESCENDING LEVEL OF ORGANIZATIONAL
HIERARCHY (WITH 1ST BEING THE TOP PERSON) AND WITHIN
LEVEL, BY TITLE AND PERCENT OF TOTAL FOR LEVEL

<table>
<thead>
<tr>
<th>Title</th>
<th>1ST</th>
<th>2ND</th>
<th>3RD</th>
<th>4TH</th>
<th>5TH</th>
<th>6TH</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative Assistant</td>
<td>0( 0)</td>
<td>0( 0)</td>
<td>0( 0)</td>
<td>1( 5)</td>
<td>1( 7)</td>
<td>0( 0)</td>
<td>2( 1)</td>
</tr>
<tr>
<td>Associate</td>
<td>0( 0)</td>
<td>2( 5)</td>
<td>1( 4)</td>
<td>2(10)</td>
<td>1( 7)</td>
<td>0( 0)</td>
<td>6( 4)</td>
</tr>
<tr>
<td>Attorney</td>
<td>4( 9)</td>
<td>2( 5)</td>
<td>2( 7)</td>
<td>2(10)</td>
<td>2(13)</td>
<td>2(20)</td>
<td>14( 9)</td>
</tr>
<tr>
<td>Chairman</td>
<td>2( 4)</td>
<td>1( 3)</td>
<td>0( 0)</td>
<td>0( 0)</td>
<td>0( 0)</td>
<td>0( 0)</td>
<td>3( 2)</td>
</tr>
<tr>
<td>Consultant</td>
<td>1( 2)</td>
<td>4(10)</td>
<td>2( 7)</td>
<td>1( 5)</td>
<td>0( 0)</td>
<td>0( 0)</td>
<td>8( 5)</td>
</tr>
<tr>
<td>Controller</td>
<td>0( 0)</td>
<td>0( 0)</td>
<td>1( 4)</td>
<td>0( 0)</td>
<td>0( 0)</td>
<td>0( 0)</td>
<td>1( 1)</td>
</tr>
<tr>
<td>Director</td>
<td>0( 0)</td>
<td>0( 0)</td>
<td>0( 0)</td>
<td>1( 5)</td>
<td>0( 0)</td>
<td>0( 0)</td>
<td>1( 1)</td>
</tr>
<tr>
<td>Director of Administration</td>
<td>0( 0)</td>
<td>0( 0)</td>
<td>1( 4)</td>
<td>1( 5)</td>
<td>0( 0)</td>
<td>0( 0)</td>
<td>2( 1)</td>
</tr>
<tr>
<td>Director (other)</td>
<td>0( 0)</td>
<td>2( 5)</td>
<td>1( 4)</td>
<td>0( 0)</td>
<td>0( 0)</td>
<td>0( 0)</td>
<td>3( 2)</td>
</tr>
<tr>
<td>Executive Vice President</td>
<td>0( 0)</td>
<td>1( 3)</td>
<td>1( 4)</td>
<td>0( 0)</td>
<td>0( 0)</td>
<td>0( 0)</td>
<td>2( 1)</td>
</tr>
<tr>
<td>Labor Relations Consultant</td>
<td>1( 2)</td>
<td>1( 3)</td>
<td>1( 4)</td>
<td>0( 0)</td>
<td>0( 0)</td>
<td>0( 0)</td>
<td>3( 2)</td>
</tr>
<tr>
<td>Managing Director</td>
<td>1( 2)</td>
<td>0( 0)</td>
<td>0( 0)</td>
<td>0( 0)</td>
<td>0( 0)</td>
<td>1(10)</td>
<td>2( 1)</td>
</tr>
<tr>
<td>Other</td>
<td>4( 9)</td>
<td>3( 8)</td>
<td>4(15)</td>
<td>2(10)</td>
<td>4(26)</td>
<td>3(30)</td>
<td>20(13)</td>
</tr>
<tr>
<td>Owner</td>
<td>3( 8)</td>
<td>0( 0)</td>
<td>0( 0)</td>
<td>0( 0)</td>
<td>0( 0)</td>
<td>0( 0)</td>
<td>3( 2)</td>
</tr>
</tbody>
</table>
These three characteristics of reporting labor relations consultants-sex, education, and title for each of up to the six top principals or executives of the organization's of reporting labor relations consultants-are also used as the predictor variables in a discriminant analysis. The effectiveness of several different models is demonstrated in table 13.

### TABLE 13
**ADDITIONAL DISCRIMINANT ANALYSES**

<table>
<thead>
<tr>
<th>Variables Utilized</th>
<th>Number of Variables</th>
<th>Percent of &quot;Grouped&quot; Cases Correctly Classified</th>
</tr>
</thead>
<tbody>
<tr>
<td>SEX1-SEX6, DEGREE1-DEGREE6, TITLE1-TITLE6</td>
<td>18</td>
<td>75.51</td>
</tr>
<tr>
<td>SEX1-SEX5, DEGREE1-DEGREE5, TITLE1-TITLE5</td>
<td>15</td>
<td>77.55</td>
</tr>
<tr>
<td>SEX1-SEX4, DEGREE1-DEGREE4, TITLE1-TITLE4</td>
<td>12</td>
<td>73.47</td>
</tr>
</tbody>
</table>
Variables Utilized

<table>
<thead>
<tr>
<th>Variables Utilized</th>
<th>Number of Variables</th>
<th>Percent of &quot;Grouped&quot; Cases Correctly Classified</th>
</tr>
</thead>
<tbody>
<tr>
<td>SEX1-SEX3, DEGREE1-DEGREE3, TITLE1-TITLE3</td>
<td>9</td>
<td>67.35</td>
</tr>
<tr>
<td>SEX1-SEX2, DEGREE1-DEGREE2, TITLE1-TITLE2</td>
<td>6</td>
<td>69.39</td>
</tr>
<tr>
<td>SEX1, DEGREE1, TITLE1</td>
<td>3</td>
<td>59.18</td>
</tr>
<tr>
<td>SEX1-SEX6</td>
<td>6</td>
<td>63.27</td>
</tr>
<tr>
<td>DEGREE1-DEGREE6</td>
<td>6</td>
<td>71.43</td>
</tr>
<tr>
<td>TITLE1-TITLE6</td>
<td>6</td>
<td>59.18</td>
</tr>
</tbody>
</table>

Geographic Distribution of Labor Relations Consultants

Table 8 demonstrates the distribution of the total 887 individual labor relations consultants identified in this study by membership in one of four specific samples. The geographic distribution of the 779 individual labor relations consultants for whom a mailing address could be developed is shown in table 14, along with the number of research questionnaires that were returned as undeliverable, that could be presumed to have been delivered, that were actually returned, and that were returned and usable in this study.

TABLE 14

GEOGRAPHIC DISTRIBUTION OF LABOR RELATIONS CONSULTANTS

<table>
<thead>
<tr>
<th>State</th>
<th>Mailed</th>
<th>Undeliverable</th>
<th>Delivered</th>
<th>Returned</th>
<th>Usable</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arizona</td>
<td>10</td>
<td>4</td>
<td>6</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Arkansas</td>
<td>8</td>
<td>2</td>
<td>6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>California</td>
<td>149</td>
<td>37</td>
<td>112</td>
<td>15</td>
<td>9</td>
</tr>
<tr>
<td>Dist. Columbia</td>
<td>12</td>
<td>3</td>
<td>9</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Florida</td>
<td>23</td>
<td>7</td>
<td>16</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>State</td>
<td>Mailed</td>
<td>Undeliverable</td>
<td>Delivered</td>
<td>Returned</td>
<td>Usable</td>
</tr>
<tr>
<td>---------------</td>
<td>--------</td>
<td>---------------</td>
<td>-----------</td>
<td>----------</td>
<td>--------</td>
</tr>
<tr>
<td>Georgia</td>
<td>20</td>
<td>-</td>
<td>20</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Idaho</td>
<td>7</td>
<td>1</td>
<td>6</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Illinois</td>
<td>47</td>
<td>20</td>
<td>27</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Indiana</td>
<td>16</td>
<td>5</td>
<td>11</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Iowa</td>
<td>7</td>
<td>1</td>
<td>6</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Kentucky</td>
<td>7</td>
<td>-</td>
<td>7</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Louisiana</td>
<td>7</td>
<td>1</td>
<td>6</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Maine</td>
<td>6</td>
<td>-</td>
<td>6</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Maryland</td>
<td>13</td>
<td>1</td>
<td>12</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>17</td>
<td>3</td>
<td>14</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Michigan</td>
<td>47</td>
<td>13</td>
<td>34</td>
<td>8</td>
<td>7</td>
</tr>
<tr>
<td>Minnesota</td>
<td>31</td>
<td>9</td>
<td>22</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Mississippi</td>
<td>7</td>
<td>-</td>
<td>7</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Missouri</td>
<td>9</td>
<td>-</td>
<td>9</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Nevada</td>
<td>8</td>
<td>2</td>
<td>6</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>New Jersey</td>
<td>20</td>
<td>3</td>
<td>17</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>New York</td>
<td>33</td>
<td>4</td>
<td>29</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>North Carolina</td>
<td>22</td>
<td>7</td>
<td>15</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Ohio</td>
<td>34</td>
<td>12</td>
<td>22</td>
<td>6</td>
<td>5</td>
</tr>
<tr>
<td>Oklahoma</td>
<td>7</td>
<td>1</td>
<td>6</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Oregon</td>
<td>17</td>
<td>2</td>
<td>15</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>32</td>
<td>5</td>
<td>27</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Tennessee</td>
<td>13</td>
<td>2</td>
<td>11</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Texas</td>
<td>35</td>
<td>9</td>
<td>26</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Virginia</td>
<td>16</td>
<td>3</td>
<td>13</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Washington</td>
<td>24</td>
<td>4</td>
<td>20</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>16</td>
<td>1</td>
<td>15</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Others (a)</td>
<td>59</td>
<td>15</td>
<td>44</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td>779</td>
<td>177</td>
<td>602</td>
<td>62</td>
<td>49</td>
</tr>
</tbody>
</table>

(a) Includes Alabama, Alaska, Colorado, Connecticut, Hawaii, Kansas, Montana, Nebraska, New Hampshire, New Mexico, Puerto Rico, Rhode Island, South Carolina, South Dakota, Utah, Vermont, and West Virginia, each of which had 5 or fewer delivered.

Almost 20% (149) of the individual labor relations consultants are located in California. Illinois and Michigan each are home to 6% (47) of the individual labor relations consultants, whereas Texas is home to more than 4% (35).
A geographic distribution of this nature has never before been assembled and, to this extent, the data shown in table 14 are valuable to any researcher attempting to research a possible relationship between the location of labor relations consultants and, for example, industrial concentration, union membership concentration, or election success rates. This distribution is not, however, a "snapshot at a point in time." The contribution to this distribution of each of the four samples must be viewed in terms of the limitation of that sample. The names in the LM-10 and LM-20/LM-20 samples, for example, were accumulated over thirty years, and that time span is inherent in the data in table 14.

U.S. Government Data

U.S. Department of Labor sources provide summary statistics on the number of forms LM-10, LM-20, and LM-21 filed, whereas the National Labor Relations Board provides statistics on the number of elections and the number of these elections won by unions, the number of eligible voters in the total number of elections, and the total number of eligible voters in the elections won by unions. Both agencies issue statistics by fiscal year.23

22 Again, the Register of Reporting Labor Relations Consultants 1986, the public record of the labor relations consultants who have filed a form LM-20 or LM-21, does show a city and state indicator for each reporting labor relations consultant, but does not provide a mailing address.

23 The United States government long used a fiscal year that began on July 1st and ended on June 30th. In mid-1976, the United States government changed to a fiscal year that began on October 1st and ended on September
Forms LM-10, LM-20, and LM-21

The numbers, by fiscal year, of forms LM-10, LM-20, and LM-21 received by the U.S. Department of Labor are listed in table 15.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Number LM-10s</th>
<th>Number LM-20s</th>
<th>Number LM-21s</th>
<th>Fiscal Year</th>
<th>Number LM-10s</th>
<th>Number LM-20s</th>
<th>Number LM-21s</th>
</tr>
</thead>
<tbody>
<tr>
<td>1970</td>
<td>196</td>
<td>134</td>
<td>26</td>
<td>1964</td>
<td>425</td>
<td>130</td>
<td>30</td>
</tr>
<tr>
<td>1971</td>
<td>56</td>
<td>32</td>
<td>154</td>
<td>1965</td>
<td>320</td>
<td>85</td>
<td>15</td>
</tr>
<tr>
<td>1972</td>
<td>41</td>
<td>163</td>
<td>22</td>
<td>1966</td>
<td>100</td>
<td>85</td>
<td>25</td>
</tr>
<tr>
<td>1973</td>
<td>102</td>
<td>124</td>
<td>37</td>
<td>1967</td>
<td>76</td>
<td>52</td>
<td>4</td>
</tr>
<tr>
<td>1974</td>
<td>37</td>
<td>70</td>
<td>30</td>
<td>1968</td>
<td>388</td>
<td>134</td>
<td><strong>26</strong></td>
</tr>
<tr>
<td>1975</td>
<td>204</td>
<td>159</td>
<td>19</td>
<td>1969</td>
<td>38</td>
<td>37</td>
<td>12</td>
</tr>
<tr>
<td>1976</td>
<td>145</td>
<td>206</td>
<td>32</td>
<td>1970</td>
<td>46</td>
<td>3</td>
<td>11</td>
</tr>
<tr>
<td>1977</td>
<td>177</td>
<td>210</td>
<td>38</td>
<td>1971</td>
<td>35</td>
<td>35</td>
<td>25</td>
</tr>
<tr>
<td>1978</td>
<td>145</td>
<td>185</td>
<td>45</td>
<td>1972</td>
<td>37</td>
<td>37</td>
<td>40</td>
</tr>
<tr>
<td>1979</td>
<td>157</td>
<td>181</td>
<td>38</td>
<td>1973</td>
<td>37</td>
<td>37</td>
<td>40</td>
</tr>
<tr>
<td>1980</td>
<td>163</td>
<td>177</td>
<td>33</td>
<td>1974</td>
<td>38</td>
<td>38</td>
<td>40</td>
</tr>
<tr>
<td>1981</td>
<td>289</td>
<td>204</td>
<td>27</td>
<td>1975</td>
<td>46</td>
<td>46</td>
<td>4</td>
</tr>
<tr>
<td>1982</td>
<td>210</td>
<td>177</td>
<td>42</td>
<td>1976</td>
<td>134</td>
<td>134</td>
<td><strong>26</strong></td>
</tr>
<tr>
<td>1983</td>
<td>289</td>
<td>277</td>
<td>42</td>
<td>1977</td>
<td>388</td>
<td>388</td>
<td><strong>26</strong></td>
</tr>
<tr>
<td>1984</td>
<td>320</td>
<td>263</td>
<td>22</td>
<td>1978</td>
<td>388</td>
<td>388</td>
<td><strong>26</strong></td>
</tr>
<tr>
<td>1985</td>
<td>52</td>
<td>38</td>
<td>33</td>
<td>1979</td>
<td>260</td>
<td>130</td>
<td>30</td>
</tr>
<tr>
<td>1986</td>
<td>14</td>
<td>17</td>
<td>34</td>
<td>1980</td>
<td>130</td>
<td>130</td>
<td>30</td>
</tr>
<tr>
<td>1987</td>
<td>151</td>
<td>224</td>
<td>41</td>
<td>1981</td>
<td>134</td>
<td>134</td>
<td><strong>26</strong></td>
</tr>
<tr>
<td>1988</td>
<td>145</td>
<td>206</td>
<td>32</td>
<td>1982</td>
<td>425</td>
<td>425</td>
<td><strong>26</strong></td>
</tr>
<tr>
<td>1989</td>
<td>202</td>
<td>289</td>
<td>52</td>
<td>1983</td>
<td>46</td>
<td>46</td>
<td>4</td>
</tr>
</tbody>
</table>

Grand totals 4,216 3,735 934

* September 14, 1959 through June 30, 1960.
** LM-21s for 1960, 1961 and 1963 reported as an aggregate 78.

Thus, each fiscal year through 1976 includes data for the four quarters beginning July 1st and ending on June 30th. Each fiscal year from and including 1978 includes data for the four quarters beginning October 1st and ending on September 30th.

Fiscal year 1977 includes data for five quarters, the four quarters of the new fiscal year beginning October 1, 1976, and the "transition quarter," July through September, 1976. Fiscal year data in this study has not been adjusted for this anomaly.
Over the 30 fiscal years from 1960 through 1989, a total of 4,216 forms LM-10, 3,735 forms LM-20, and 934 forms LM-21 have been filed with the U.S. Department of Labor. This is an average annual submission of 140 forms LM-10, 124 forms LM-20, and 31 forms LM-21.

N.L.R.B. Elections and Voters

The National Labor Relations Board publishes extensive data on its own activities in an annual report. Included in this material are data for the entire country on the total number of representation and decertification elections held, the number of those elections won by unions, the total number of voters eligible to vote in the elections, and the number of voters eligible to vote in the elections won by unions. Although beyond the scope of this study, data are also available on elections, elections won, voters by state and region, participating union, industrial group, and bargaining unit size.

Data on all N.L.R.B. elections held in the United States for each fiscal year from 1960 through 1988 and the number of these elections won by unions have been extracted from the N.L.R.B. annual reports and are shown in table 16. While fiscal year data for 1989 are not yet available from the

---

24 U.S. Department of Labor data on forms LM-10, LM-20, and LM-21 and, for that matter, other forms required under the LMRDA, for 1960 are for the period September 14, 1959, through June 30, 1960. Data in this study has not been adjusted for this anomaly.
N.L.R.B., calendar year data for 1989 are available and are included in table 16 as an estimate of the fiscal year data. For each fiscal year, the percentage of elections won by the unions has been calculated and is also shown in table 16.

### TABLE 16

<table>
<thead>
<tr>
<th>YEAR</th>
<th>TOTAL ELECTIONS HELD</th>
<th>ELECTIONS WON BY UNION</th>
<th>PERCENTAGE OF ELECTIONS WON BY UNION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1989*</td>
<td>4,260</td>
<td>2,007</td>
<td>47.11</td>
</tr>
<tr>
<td>1988</td>
<td>4,239</td>
<td>1,959</td>
<td>46.21</td>
</tr>
<tr>
<td>1987</td>
<td>4,168</td>
<td>1,842</td>
<td>44.19</td>
</tr>
<tr>
<td>1986</td>
<td>4,644</td>
<td>2,008</td>
<td>43.24</td>
</tr>
<tr>
<td>1985</td>
<td>4,743</td>
<td>1,991</td>
<td>41.98</td>
</tr>
<tr>
<td>1984</td>
<td>4,512</td>
<td>1,883</td>
<td>41.73</td>
</tr>
<tr>
<td>1983</td>
<td>4,481</td>
<td>1,920</td>
<td>42.85</td>
</tr>
<tr>
<td>1982</td>
<td>5,205</td>
<td>2,098</td>
<td>40.31</td>
</tr>
<tr>
<td>1981</td>
<td>7,659</td>
<td>3,283</td>
<td>42.86</td>
</tr>
<tr>
<td>1980</td>
<td>8,350</td>
<td>3,813</td>
<td>45.66</td>
</tr>
<tr>
<td>1979</td>
<td>8,177</td>
<td>3,865</td>
<td>44.82</td>
</tr>
<tr>
<td>1978</td>
<td>8,380</td>
<td>3,842</td>
<td>45.85</td>
</tr>
<tr>
<td>1977</td>
<td>9,626</td>
<td>4,424</td>
<td>45.96</td>
</tr>
<tr>
<td>1976</td>
<td>8,749</td>
<td>4,208</td>
<td>48.10</td>
</tr>
<tr>
<td>1975</td>
<td>8,687</td>
<td>4,187</td>
<td>48.20</td>
</tr>
<tr>
<td>1974</td>
<td>8,976</td>
<td>4,474</td>
<td>49.84</td>
</tr>
<tr>
<td>1973</td>
<td>9,472</td>
<td>4,833</td>
<td>51.02</td>
</tr>
<tr>
<td>1972</td>
<td>9,020</td>
<td>4,628</td>
<td>53.53</td>
</tr>
<tr>
<td>1971</td>
<td>8,459</td>
<td>4,485</td>
<td>53.02</td>
</tr>
<tr>
<td>1970</td>
<td>8,161</td>
<td>4,491</td>
<td>55.03</td>
</tr>
<tr>
<td>1969</td>
<td>8,083</td>
<td>4,403</td>
<td>54.47</td>
</tr>
<tr>
<td>1968</td>
<td>7,931</td>
<td>4,529</td>
<td>57.11</td>
</tr>
<tr>
<td>1967</td>
<td>8,183</td>
<td>4,813</td>
<td>58.82</td>
</tr>
<tr>
<td>1966</td>
<td>8,392</td>
<td>5,082</td>
<td>60.56</td>
</tr>
<tr>
<td>1965</td>
<td>7,824</td>
<td>4,693</td>
<td>59.98</td>
</tr>
<tr>
<td>1964</td>
<td>7,563</td>
<td>4,307</td>
<td>56.95</td>
</tr>
<tr>
<td>1963</td>
<td>7,141</td>
<td>4,065</td>
<td>56.92</td>
</tr>
</tbody>
</table>
| 1962  | 7,668                 | 4,314                   | 56.26                               

YEAR | TOTAL ELECTIONS HELD | ELECTIONS WON BY UNION | PERCENTAGE OF ELECTIONS WON BY UNION
---|---|---|---
1961 | 6,610 | 3,569 | 53.99
1960 | 6,633 | 3,746 | 56.48
TOTALS | 215,996 | 109,762 | 50.82

*Calendar year.

The elections held and the elections won numbers in table 16 are derived. The data for the years 1960 through 1988 have been extracted from N.L.R.B. annual report table 11, "Types of Elections Resulting in Certification in Cases Closed, Fiscal Year [19XX]," N.L.R.B. annual report table 12, "Results of Union-Shop Deauthorization Polls in Cases Closed, Fiscal Year [19XX]," and N.L.R.B. annual report table 13, "Final Outcome of Representation Elections in Cases Closed, Fiscal Year [19XX]." Total elections held" is the "All types, total: Elections" from N.L.R.B. annual report table 11 and "Elections won by union" is the sum of the "[Total][Number of Polls][Resulting in continued authorization]" from N.L.R.B. annual report table 12 and "[Elections won by unions][Total won][Total representation elections]" from N.L.R.B. annual report table 13.

The total elections figures in table 16 include representation elections involving RC, RM, and RD cases and Decertification elections involving UD cases. The N.L.R.B. defines these cases designators as follows:

---

RC: A petition filed by a labor organization or an employee alleging that a question concerning representation has arisen and seeking an election for determination of a collective-bargaining representative.

RD: A petition filed by employees alleging that the union their collective-bargaining representative no longer represents a majority of the employees in the appropriate unit and seeking an election to determine this.

RM: A petition filed by an employer alleging that a question concerning representation has arisen and seeking an election for the determination of a collective bargaining representative.27

UD: A petition filed by employees . . . requesting that the Board conduct a referendum to determine whether a union's authority to enter into a union-shop contract should be rescinded.28

Table 16 demonstrates that over the 30 years from 1960 through 1989 there have been 215,996 N.L.R.B. supervised elections, and unions have won 109,762 or 50.82% of these elections. The percentage of elections won by unions has demonstrated a rising trend from 1960 to 1966, a declining trend from 1966 to 1982, and an increase each year since 1982.

While table 16 describes N.L.R.B. elections, table 17 provides comparable information on the eligible voters in those elections.


### TABLE 17

**ELIGIBLE VOTERS IN N.L.R.B. REPRESENTATION AND DECERTIFICATION ELECTIONS**

<table>
<thead>
<tr>
<th>YEAR</th>
<th>TOTAL ELECTIONS HELD</th>
<th>ELECTIONS WON BY UNION</th>
<th>PERCENTAGE OF ELECTIONS WON BY UNION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1989*</td>
<td>269,032</td>
<td>105,593</td>
<td>39.25</td>
</tr>
<tr>
<td>1988</td>
<td>248,854</td>
<td>99,905</td>
<td>40.15</td>
</tr>
<tr>
<td>1987</td>
<td>247,779</td>
<td>100,606</td>
<td>40.60</td>
</tr>
<tr>
<td>1986</td>
<td>265,836</td>
<td>96,521</td>
<td>36.31</td>
</tr>
<tr>
<td>1985</td>
<td>297,354</td>
<td>93,641</td>
<td>31.49</td>
</tr>
<tr>
<td>1984</td>
<td>254,305</td>
<td>108,006</td>
<td>42.47</td>
</tr>
<tr>
<td>1983</td>
<td>213,076</td>
<td>92,792</td>
<td>43.55</td>
</tr>
<tr>
<td>1982</td>
<td>300,904</td>
<td>105,405</td>
<td>35.03</td>
</tr>
<tr>
<td>1981</td>
<td>456,678</td>
<td>168,456</td>
<td>36.99</td>
</tr>
<tr>
<td>1980</td>
<td>536,914</td>
<td>297,527</td>
<td>38.65</td>
</tr>
<tr>
<td>1979</td>
<td>583,644</td>
<td>214,704</td>
<td>38.79</td>
</tr>
<tr>
<td>1978</td>
<td>480,879</td>
<td>183,229</td>
<td>38.10</td>
</tr>
<tr>
<td>1977</td>
<td>579,841</td>
<td>229,778</td>
<td>39.63</td>
</tr>
<tr>
<td>1976</td>
<td>480,673</td>
<td>177,023</td>
<td>36.83</td>
</tr>
<tr>
<td>1975</td>
<td>576,536</td>
<td>222,670</td>
<td>38.62</td>
</tr>
<tr>
<td>1974</td>
<td>553,676</td>
<td>206,349</td>
<td>37.27</td>
</tr>
<tr>
<td>1973</td>
<td>546,086</td>
<td>236,724</td>
<td>43.35</td>
</tr>
<tr>
<td>1972</td>
<td>597,794</td>
<td>300,486</td>
<td>50.27</td>
</tr>
<tr>
<td>1971</td>
<td>592,673</td>
<td>278,788</td>
<td>47.04</td>
</tr>
<tr>
<td>1970</td>
<td>617,210</td>
<td>321,700</td>
<td>52.12</td>
</tr>
<tr>
<td>1969</td>
<td>597,286</td>
<td>302,914</td>
<td>50.72</td>
</tr>
<tr>
<td>1968</td>
<td>570,172</td>
<td>294,215</td>
<td>51.60</td>
</tr>
<tr>
<td>1967</td>
<td>628,730</td>
<td>359,292</td>
<td>57.15</td>
</tr>
<tr>
<td>1966</td>
<td>597,499</td>
<td>341,738</td>
<td>57.19</td>
</tr>
<tr>
<td>1965</td>
<td>548,511</td>
<td>334,751</td>
<td>61.03</td>
</tr>
<tr>
<td>1964</td>
<td>554,562</td>
<td>297,066</td>
<td>53.57</td>
</tr>
<tr>
<td>1963</td>
<td>506,507</td>
<td>266,843</td>
<td>52.88</td>
</tr>
<tr>
<td>1962</td>
<td>557,707</td>
<td>307,127</td>
<td>55.07</td>
</tr>
<tr>
<td>1961</td>
<td>471,260</td>
<td>231,047</td>
<td>49.03</td>
</tr>
<tr>
<td>1960</td>
<td>508,907</td>
<td>288,250</td>
<td>57.20</td>
</tr>
</tbody>
</table>

**TOTALS** 14,234,885 6,663,156 46.81

* Calendar year.

Data on eligible voters in all N.L.R.B. elections held in the United States for each fiscal year from 1960 through 1988 and the number of eligible voters in the elections won by unions have been extracted from the N.L.R.B.
annual reports and are shown in table 17. Data for fiscal year 1988 are not available from the N.L.R.B., and calendar year data\(^{29}\) are used as an estimate of the fiscal data. For each year, the percentage of total eligible voters represented by the eligible voters in elections won by unions is calculated and is also shown in table 17.

The eligible voters and eligible voters in elections won by unions figures are derived from the same N.L.R.B. annual report tables as the elections and elections won figures. "Total eligible voters" is the "All types, total: Eligible voters" from N.L.R.B. annual report table 11, and "Eligible voters in elections won by the union" is the sum of the "[Total][Number][Employees involved . . .][In polls][Resulting in continued authorization]" from N.L.R.B. annual report table 12 and "[Employees eligible to vote][In elections won][Total representation elections]" from N.L.R.B. annual report table 13.

Table 17 shows that over the 30 years from 1960 through 1989 there have been 14,234,885 voters eligible to vote in N.L.R.B. supervised elections, and that of this number, 6,663,156 or 46.81% were eligible to vote in elections won by unions. The eligible voters in elections won by unions as percentage of eligible voters in all elections has demonstrated a downward trend from the years 1960 through 1972, during which the percentages ranged from 47 to 61,

\(^{29}\) BNA Plus, NLRB Representation and Decertification Election Statistics, Tables 1 and 2.
to the years 1974 through 1989, during which the percentages ranged from 31 to 43.

**N.L.R.B. Elections and Forms LM-20**

Organized labor suggests that its weakness is due, at least in part, to the failure of labor relations consultants to file required reports. A review of the N.L.R.B. election results data coupled with the number of forms LM-20 filed with the U.S. Department of Labor do not to support this contention.

Table 18 shows information calculated from the forms LM-20 data in table 15 and the total elections and elections won by unions figures in table 16.

<table>
<thead>
<tr>
<th>Year</th>
<th>Elections</th>
<th>% Elections</th>
<th>Index</th>
</tr>
</thead>
<tbody>
<tr>
<td>1989</td>
<td>14.74</td>
<td>47.11</td>
<td>3.20</td>
</tr>
<tr>
<td>1988</td>
<td>28.26</td>
<td>48.21</td>
<td>1.64</td>
</tr>
<tr>
<td>1987</td>
<td>22.53</td>
<td>44.19</td>
<td>1.96</td>
</tr>
<tr>
<td>1986</td>
<td>22.11</td>
<td>43.24</td>
<td>1.96</td>
</tr>
<tr>
<td>1985</td>
<td>16.53</td>
<td>41.98</td>
<td>2.54</td>
</tr>
<tr>
<td>1984</td>
<td>28.74</td>
<td>41.73</td>
<td>1.45</td>
</tr>
<tr>
<td>1983</td>
<td>39.65</td>
<td>42.85</td>
<td>1.08</td>
</tr>
<tr>
<td>1982</td>
<td>45.26</td>
<td>40.31</td>
<td>.89</td>
</tr>
<tr>
<td>1981</td>
<td>61.77</td>
<td>42.86</td>
<td>.69</td>
</tr>
<tr>
<td>1980</td>
<td>40.53</td>
<td>45.66</td>
<td>1.13</td>
</tr>
<tr>
<td>1979</td>
<td>51.43</td>
<td>44.82</td>
<td>.87</td>
</tr>
<tr>
<td>1978</td>
<td>52.70</td>
<td>45.85</td>
<td>.87</td>
</tr>
<tr>
<td>1977</td>
<td>59.06</td>
<td>45.96</td>
<td>.78</td>
</tr>
<tr>
<td>1976</td>
<td>85.77</td>
<td>48.10</td>
<td>.56</td>
</tr>
<tr>
<td>1975</td>
<td>124.10</td>
<td>48.20</td>
<td>.39</td>
</tr>
<tr>
<td>1974</td>
<td>84.68</td>
<td>49.84</td>
<td>.59</td>
</tr>
<tr>
<td>1973</td>
<td>210.49</td>
<td>51.02</td>
<td>.24</td>
</tr>
<tr>
<td>1972</td>
<td>220.00</td>
<td>53.53</td>
<td>.24</td>
</tr>
<tr>
<td>1971</td>
<td>241.69</td>
<td>53.02</td>
<td>.22</td>
</tr>
<tr>
<td>1970</td>
<td>220.57</td>
<td>55.03</td>
<td>.25</td>
</tr>
<tr>
<td>1969</td>
<td>260.74</td>
<td>54.47</td>
<td>.21</td>
</tr>
<tr>
<td>1968</td>
<td>172.41</td>
<td>57.11</td>
<td>.33</td>
</tr>
<tr>
<td>Year</td>
<td>Elections</td>
<td>% Elections</td>
<td>Index</td>
</tr>
<tr>
<td>------</td>
<td>-----------</td>
<td>-------------</td>
<td>-------</td>
</tr>
<tr>
<td>1967</td>
<td>157.37</td>
<td>58.82</td>
<td>.37</td>
</tr>
<tr>
<td>1966</td>
<td>98.73</td>
<td>60.56</td>
<td>.61</td>
</tr>
<tr>
<td>1965</td>
<td>92.05</td>
<td>59.98</td>
<td>.65</td>
</tr>
<tr>
<td>1964</td>
<td>58.18</td>
<td>56.95</td>
<td>.96</td>
</tr>
<tr>
<td>1963</td>
<td>53.29</td>
<td>56.92</td>
<td>1.07</td>
</tr>
<tr>
<td>1962</td>
<td>319.50</td>
<td>56.26</td>
<td>.18</td>
</tr>
<tr>
<td>1961</td>
<td>19.50</td>
<td>53.99</td>
<td>2.77</td>
</tr>
<tr>
<td>1960</td>
<td>118.45</td>
<td>56.48</td>
<td>.48</td>
</tr>
</tbody>
</table>

Each election represents an opportunity for a labor relations consultant to engage in persuader activity. A form LM-20 filed with the U.S. Department of Labor represents, it can be argued, an admission that persuader activity has taken place. The form LM-20 was selected instead of the form LM-10 or LM-21 because the form LM-20 must be filed by the labor relations consultants within 30 days of the agreement or arrangement for persuader activity and the time lag between the admission of persuader activity and the election in which the persuader activity takes place is minimized. Thus, the calculated "Elections per LM-20" figure describes opportunities for persuader activity per case of actual persuader activity.

Table 18 demonstrates that the elections per LM-20 were high from 1967 through 1973 and trended down in the years 1974 through 1989. This trend is attributable to an increase in the number of forms LM-20 and, to a greater extent, to the decrease in the number of elections.

---

30 A form LM-20 may be required in circumstances other than persuader activity. See note 31 and accompanying text, chapter I.
Whereas, by this measure, labor relations consultant reporting compliance has improved in an almost unbroken trend from 1975, it is appropriate to assess the "elections per LM-20" data in terms of how successful the unions have been in N.L.R.B. elections. Presumably, the relative failure of labor relations consultants to file forms LM-20, i.e., the larger the number of elections per LM-20 filed, the poorer organized labor should fare in N.L.R.B. elections. The data do not support this presumption. The "elections won per LM-20" is divided into the percentage of elections won by unions to produce an index. The index is low in the years when the union win rate is relatively high and the elections per LM-20 figure is high, and it is high in the years when the union win rate is low and the election per LM-20 is low.

The correlation of the elections per LM-20 and the union win rate is .5626 (p=.001) over 30 years. In the years 1967 through 1973, the elections per LM-20 figure averaged well over 200, whereas the union win rate averaged well over 50%. In the years since 1973, the average number of elections per LM-20 filed is approximately 50, while the union win rate has dropped to an average of approximately 45%.

Summary

This chapter has examined data developed using a questionnaire mailed to labor relations consultants and examined using a series of discriminant analyses. The correct classification of "grouped" cases is predicted with a high
level of accuracy. Data related to the labor relations consultants to whom mailed questionnaires were sent, the sex, highest earned educational credential, and title and geographic distribution of labor relations consultants are also examined. N.L.R.B. elections, elections won by unions, eligible voters and the forms LM-10, LM-20 and LM-21 filed, by fiscal year, are displayed in tables and the data examined.
CHAPTER V

SUMMARY AND CONCLUSIONS

This chapter summarizes the results of the study and presents conclusions from the analysis of the data. The results of testing the hypothesis is examined. The findings with respect to three research questions are examined. Recommendations for future research are presented.

Synopsis of the Study

It is suggested that the relative power of organized labor in the United States has diminished, in large part, because of management's use of labor relations consultants. More specifically, it is suggested that the failure of labor relations consultants who engage in persuader activity to file required reports with the U.S. Department of Labor is a significant cause of this diminution.

The purpose of this study is to test a hypothesis related to this issue. That hypothesis is that there is no combination of variables that can predict reporting compliance by labor relations consultants with any level of accuracy.
A secondary purpose of this study is to examine three related research questions that are closely associated with the hypotheses and the relationship between labor relations consultants, their reporting compliance and the relative strength of organized labor. They are (1) an estimate of the number of labor relations consultants who engage in persuader activity, (2) a description of labor relations consultant characteristics such as sex, highest earned academic credential, title and geographic distribution and, (3) whether U.S. Department of Labor and N.L.R.B. statistics support the contention that the diminution of union strength is related to labor relations consultants and/or their reporting compliance and an estimate of such relationship.

The population for this study is hypothetical and consists of all labor relations consultants who engage in persuader activity or who can reasonably be presumed to have engaged in persuader activity. This definition excludes labor relations consultants who merely have the potential to engage in persuader activity.

The focus of this study is narrow in the sense that it examines only the labor relations consultant activity defined as persuader activity. Labor relations consultants can perform many functions and combinations of functions for the employers who hire them. Labor relations consultants can represent an employer in collective bargaining; in arbitration; or in civil, administrative, or criminal proceedings associated with some aspect of the employment relationship with a current, past, or potential employee. They
can instruct, survey or otherwise interface with employees on a variety of issues. Some of this labor relations consultant activity is reportable, i.e., it must be reported to the U.S. Department of Labor on an appropriate form. This study is concerned only with the work of labor relations consultants described as persuader activity.

Four distinct samples of labor relations consultants who are known to have engaged in persuader activity or could reasonably be presumed to have engaged in persuader activity are identified. They are labor relations consultants who have self-identified as having engaged in persuader activity and who have already filed a required report, labor relations consultants who have been identified as having engaged in persuader activity by the companies that employed them, labor relations consultants who have held themselves out to the public as such by having been listed in a yellow pages directory, and labor relations consultants who are alleged in labor publications to have engaged in persuader activity.

The names contributed by each of these four samples were combined and cross-checked. A research questionnaire was mailed to each of the 779 labor relations consultants identified by this process. Data from usable research questionnaire were coded and the coded data subjected to a series of discriminant analyses and t-tests.

Finally, the number of forms LM-10, LM-20, and LM-21 filed by fiscal year for the 30 years, 1960 through 1989, was assembled from U.S.
Department of Labor sources. The number of total elections, elections won by unions, the total number of voters eligible to vote in both the total elections and the elections won by unions for each of the same 30 fiscal years was assembled from National Labor Relations Board sources. Certain U.S. Department of Labor data is examined in the context of the National Labor Relations Board data.

**Results of Hypothesis Testing**

The null hypothesis tested is:

there is no combination of variables that can predict with any degree of accuracy whether a labor relations consultant who engages in persuader activity will file the required report.

This null hypothesis is rejected. A discriminant analysis using a stepwise method that enters and removes variables one at a time, with variables that minimize the overall Wolks's lambda being selected. Some 54 variables were initially used in the discriminant analysis. The results were intuitively unsatisfactory and violated basic assumptions that underlie discriminant analysis.

A revised list of 33 variables was utilized and discriminant analysis retained 16. These 16 variables\(^1\) correctly classified 93.8% of the grouped cases.

\(^1\) See note 15, chapter IV.
The practical value of this process is demonstrated if the researcher can predict with some degree of accuracy the probable reporting compliance of an "ungrouped" labor relations consultant. It is likely that accuracy would be high for "ungrouped" cases in which reasonably sound data could be collected on the 16 variables used to correctly classify 93.8% of the "grouped" cases for each "ungrouped" case. It is not likely that an individual labor relations consultant thought to be involved in a given representation dispute would complete a research questionnaire. Therefore, the percentage of correct classification of "grouped" cases using a variety of arbitrarily selected variables, i.e., variables selected without regard for their Wilks's lambda, whose values might be determined by an observer was calculated. The result are shown in Table 3. One model using only 8 variables, FORM, ORGPHIL, OFFICES, STATE, EMPLOYEE, SEX1, TITLE1, and YELLPAGE correctly predicted 69.39% of the "grouped" cases.

The extent to which a model effective with "grouped" cases can be equally effective with "ungrouped" cases is probably limited. This is because of the difficulty in distinguishing between labor relations consultants who have the potential to engage in persuader activity, e.g., all attorneys or all retired managers of labor relations, and labor relations consultants who might reasonably be presumed to have engaged in persuader activity, e.g., attorneys who represent management in union avoidance campaigns.
A methodology was developed and implemented to identify labor relations consultants who have engaged in persuader activity. The methodology involved the acquisition of thousands of pages of reports filed with the U.S. Department of Labor over 30 years. Each report is carefully reviewed and, because many types of labor relations activity are reportable, the forms not describing persuader activity were put aside. Whereas the records from which this information was extracted are and have been available to the public, the effort associated with screening more than 20,000 sheets and identifying the reports that involve persuader activity, as opposed to some other reportable activity, has been more than other researchers have been willing to expend.

Two samples of labor relations consultants were developed from this methodology. The first is the sample of labor relations consultants who have filed reports confirming that they have engaged in persuader activity. The forms involved are the Agreement and Activities Report, form LM-20 (see appendix D), and the Receipts and Disbursements Report, form LM-21 (see appendix E). The second is the sample of labor relations consultants who are identified as having engaged in persuader activity by the companies that employed them to engage in persuader activity. The form involved is the Employer Report, LM-10 (see appendix C).

The list of names and addresses developed from these two samples represents the only known extensive and comprehensive list of labor relations
consultants known to have engaged in persuader activity. Table 8 shows that 285 different labor relations consultants known to have engaged in persuader activity were identified exclusively from this methodology. An additional 61 labor relations consultants were confirmed by this methodology as having engaged in persuader activity.

While these lists are unique, they are also flawed. The records from which the names of the labor relations consultants were extracted were filed over a period of 30 years. Many names and, especially, addresses, are no longer valid and, therefore, are not useful in identifying a labor relations consultant who has engaged in persuader activity and who is available contemporarily to engage in persuader activity. Table 22 indicates that, of the 285 different labor relations consultants known to have engaged in persuader activity identified by this methodology, the mailed research questionnaire was delivered to only 168 (58.9%). Of the research questionnaires sent to the 61 labor relations consultants confirmed by this methodology to have engaged in persuader activity, 47 (77%) were delivered. Thus, of the total of 346 different labor relations consultants known to have engaged in persuader activity, research questionnaires were delivered to 215 (62.1%).
Research Questions

The first research question is:

What is an estimate of the number of labor relations consultants who engage in persuader activity or can reasonably be presumed to have engaged in persuader activity?

The number of labor relations consultants who engage in persuader activity can be estimated from the research findings of this study.

Table 22 shows that of 602 different labor relations consultants identified, 215 (35.7%) are known to have engaged in persuader activity and 387 (64.3%) are not known to have engaged in persuader activity. Table 7 indicates that 35.7% of those not known to have engaged in persuader activity reported themselves as having arranged or agreed to have engaged in persuader activity. This percentage applied to the 387 labor relations consultants not known to have engaged in persuader activity, but reporting themselves as such, results in another 138 labor relations consultants who have engaged in persuader activity. Thus, of the total 602 labor relations consultants shown in table 22, 353 (215 + 138) or 58.6%, are estimated to have engaged in persuader activity.

Table 22 also demonstrates that, of the 602 different labor relations consultants identified, only the 181 (30.1%) appearing exclusively in the "C" sample are known to have reported that they engaged in persuader activity. Table 8 demonstrates that of the total 887 labor relations consultants
identified, only the 272 (30.7%) appearing exclusively in the "C" sample are known to have engaged in persuader activity and reported to the U.S. Department of Labor.

The total different labor relations consultant number of 887 from table 8 is more satisfactory than the number in table 22 because the number in table 22 is more a function of the inherent weaknesses in three samples, i.e., the age of some of the information in the LM-10 and LM-20/LM-21 samples and the absence of addresses in the RUB/S.T.I.R. sample, than it is a representation of the number of contemporary labor relations consultants who engage in persuader activity or who can be presumed to engage in persuader activity. While names have certainly been dropped from this list and names have certainly been added, based on the above and the reduced number of N.L.R.B. elections in recent years, it is estimated that there are 850 contemporary labor relations consultants who have engaged in persuader activity or who can be presumed to have engaged in persuader activity.

Of these 850 contemporary labor relations consultants, 58.6% or 498 are estimated to have actually engaged in persuader activity and, of that number, 30.7% or 153 are estimated to have engaged in persuader activity and filed a report with the U.S. Department of Labor. Thus, 345 of 498, or 69.2%, are estimated to have engaged in persuader activity and not filed a report with the U.S. Department of Labor.

The second research question is:
What is the sex, highest earned educational credential, title, and geographic distribution of labor relations consultants who engage in persuader activity or who can be presumed to have engaged in persuader activity?

Table 10, "Number of Principals by Descending Level of Organizational Hierarchy (with 1st being the top person) and Within Level, by Sex and Percent of Total for Level"; table 11, "Number of Principals by Descending Level of Organizational Hierarchy (with 1st being the top person) and Within Level, by Highest Earned Academic Credential and Percent of Total for Level"; table 12, "Number of Principals by Descending Level of Organizational Hierarchy (with 1st being top person) and Within Level, by Title and Percent of Total for Level"; and table 14, "Geographic Distribution of Labor Relations Consultants" describe characteristics of labor relations consultants who engage in persuader activity or who can be presumed to have engaged in persuader activity. No such survey has ever before been undertaken.

On average, the surveyed labor relations consultant is a male attorney, has the title of president, and is located in California, Illinois, or Michigan. One of four, however, is female and one of two is not an attorney.

The third research question is:

What is the estimated influence the influence of labor relations consultants on the decrease in strength of organized labor and the estimated
influence of persuader activity reporting compliance on the outcome of N.L.R.B. elections?

One course of action always available when confronted by a complex issue is to seek advice and guidance from an outside counsel. An employer whose employees are involved or soon will be involved in a representation or decertification election can take some action in connection with the election. The employer can seek guidance from someone with knowledge of the process and of the steps that the employer can legally take in connection with the election. The employer often hires a labor relations consultant, who may also be an attorney, to provide that advice. Clearly, these labor relations consultants could not continue to stay in business if employers did not continue to hire, and employers would not continue to hire labor relations consultants if they did not perceive some value in doing so.

There can be no question that there are instances in which the advice or guidance of a labor relations consultant has resulted in the union's failure to win an election. It can only be guessed how frequently this occurs and how frequently the labor relations consultant does something for the employer that the employer would not have done if left to his own devises. To this extent then, the influence of labor relations consultants on the strength of organized labor cannot be estimated.

The issue, however, can be put in better context, at least with respect to the use of labor relations consultants in representation and representation
elections. If union membership in the United States, as a percentage of the total civilian labor force, were the same in 1989 as it was in 1960, there would be 30,330,620 union members, 13,370,620 more than the 16,960,000 that were reported for 1989.  

Table 17 demonstrates that in the 30 fiscal years from 1960 through 1989, there have been 14,234,885 eligible voters in all the N.L.R.B. representation and decertification elections held.

Thus, if organized labor had won every N.L.R.B. election for the past 30 years, union membership in the United States as a percentage of the civilian labor force would still be significantly less than it had been in the first year of the LMRDA. During this time span, organized labor won elections involving 6,663,156 eligible voters. It can be argued, therefore, that the influence of labor relations consultants on organized labor in the N.L.R.B. elections process could be no more that 7,571,729. That number, added to actual union membership, would result in a total of 24,531,729 union members, or 19.81% of the 1989 civilian labor population of 123,849,000. Union membership in 1989 actually represents 13.69% of the civilian labor force; in 1960, it represented 24.49%. Thus where the influence of labor relations consultants solely in the election process is reduced to zero, hypothetical union membership has decreased by almost 8 million.

Whereas labor relations consultants have certainly contributed to union losses in the N.L.R.B. election process, organized labor must look beyond this

---

2 See note 1, chapter I.
process and, therefore, beyond the contribution of labor relations consultants to explain the significant diminution of union power. The ability of labor relations consultants to decrease the power of organized labor through other than the N.L.R.B. election process, e.g., by guiding employers to adopt approaches that ensure no union interest, etc., has not been examined.

The influence of the failure of labor relations consultants to report persuader activity on the outcome of N.L.R.B. elections cannot be estimated. Current information about how much a labor relations consultant is paid, who his other clients might be, etc., is information that the union might use with great effect in an organizing drive. The absence of reports from the labor relations consultant related to persuader activity and the details of agreements with other employers represent a lost opportunity for the union. It is impossible to estimate how many N.L.R.B. elections unions might have won had they been able to use the tactics associated with access to persuader activity reports.

The information in table 15, "Forms LM-10, LM-20, and LM-21 Filed by Fiscal Year"; table 16, "N.L.R.B. Representation and Decertification Elections"; and table 18, "Elections/Form LM-20 Index" suggests that, whereas no absolute level can be determined, more forms LM-20 have been filed and fewer N.L.R.B. elections held in recent years than previously. This gives organized labor greater opportunity for access to information associated with
a persuader activity arrangement between an employer and a labor relations consultant.

**Implications for Further Research**

This study focuses on reportable activity under Section 203(b) of the LMRDA described as persuader activity and certain characteristics of the labor relations consultant who report or should report pursuant to the provisions of this section. Many associated issues should be examined in further research.

Most of these issues are related to the information actually contained in the forms LM-10, LM-20, and LM-21 acquired from the U.S. Department of Labor. Employers, for example, report six different kinds of activity and, further, report by industrial classification. A complete description of all financial terms of each of these activities is supposed to be included in the LM-10.

Because the employer’s LM-10 and the labor relations consultant’s LM-20 represent the description of the two parties of the same transaction, the forms can be matched and conclusions drawn from differences. At the same time, any labor relations consultant’s transaction which is described in a form LM-20 should also be covered in a form LM-21. These two forms can be matched and conclusions drawn from differences.

The forms LM-21 should contain details regarding agreements between the labor relations consultant who has engaged in persuader activity and
certain of his clients for whom no persuader activity has been performed. No
known research has been conducted on the terms of these other agreements
or the identities of the parties involved. In almost any discussion of the labor
relations consultant industry, its size is estimated in terms of annual income.
An analysis of all forms LM-20 and LM-21 should allow aggregate annual
expenditures for labor relations consultants to be estimated with a higher
degree of accuracy than ever before.

Table 15 suggests a number of these areas for further examination.
Does the difference between 4,216 Employer Reports and 3,735 forms LM-20
suggest a significant under-reporting by labor relations consultants, or does it
simply indicate that there are additional activities that an employer must
report? Does the difference between the 934 forms LM-21 and 3,735 forms
LM-20 indicate a significant absence of labor relations consultant annual
reports, or does it simply indicate that labor relations consultants cover
multiple persuader activity transactions in the same annual report?

The N.L.R.B. elections and voters data urge further examination. The
N.L.R.B. annual reports present the same election data in several forms: by
union involved, by state and region, by industrial classification, and by unit
size. Matching this information with information contained in forms LM-10,
LM-20, and LM-21 might identify trends and changes; it might also highlight
unions that are effective organizers, and the industrial groups, geographic
areas, or unit size in which organizing is easiest or most difficult.
Conclusion

The purposes of this study was to determine whether there was some mix of variables that would permit the reporting compliance of labor relations consultants who engaged in persuader activity to be predicted with a high degree of accuracy.

The findings of the study establish that labor relations consultants who engage in persuader activity or who could be presumed to have engaged in persuader activity can be identified. The methodology to meet this objective involved the examination of four specific samples: labor relations consultants who have filed reports confirming that they have engaged in persuader activity; labor relations consultants identified as having engaged in persuader activity by the companies that hired them; labor relations consultants who have advertised in the yellow pages and labor relations consultants identified in the labor press.

Once having identified labor relations consultants known to have engaged in persuader or who could be presumed to have engaged in persuader activity, a research questionnaire was sent to those for whom a reasonable mailing address could be developed. Data from completed questionnaire were examined using discriminant analysis techniques. Using 16 variables, the correct classification of grouped cases was predicted with an accuracy of 93.8%.
N.L.R.B. election and voters data, by fiscal year, for thirty years as well as LM-10, LM-20, and LM-21 totals by fiscal year for the same 30 years was examined. Findings from this examination that related to the purposes of the study were presented and discussed.
APPENDIX A

LIST OF VARIABLES USED IN DISCRIMINANT ANALYSIS
<table>
<thead>
<tr>
<th>Variable</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>PERSUDE</td>
<td>Whether or not the subject is known to have engaged in persuader activity.</td>
</tr>
<tr>
<td>FORM</td>
<td>Description of the business form of the subject’s organization.</td>
</tr>
<tr>
<td>YRSTART</td>
<td>Identification of the year in which the subject’s current business organization began doing business.</td>
</tr>
<tr>
<td>NAMECHG</td>
<td>Whether or not the subject’s business organization changed its name in 1987, 1988, or 1989.</td>
</tr>
<tr>
<td>ADDCHG</td>
<td>Whether or not the subject’s business organization changed its address in 1987, 1988, or 1989.</td>
</tr>
<tr>
<td>FORMCHG</td>
<td>Whether or not the subject’s business organization changed its form in 1987, 1988, or 1989.</td>
</tr>
<tr>
<td>ORGPHIL</td>
<td>Whether the subject’s organization represents only management, only unions or both.</td>
</tr>
<tr>
<td>PCTMGT</td>
<td>Estimate of the percentage of annual gross revenue of the subject’s organization associated with representing management.</td>
</tr>
<tr>
<td>PCTUNION</td>
<td>Estimate of the percentage of annual gross revenue of the subject’s organization associated with representing unions.</td>
</tr>
<tr>
<td>PCTOTHER</td>
<td>Estimate of the percentage of annual gross revenue of the subject’s organization associated with representing other than management and unions.</td>
</tr>
<tr>
<td>REPMGT</td>
<td>Whether or not subject’s organization represents management in union avoidance campaigns.</td>
</tr>
<tr>
<td>GROSS</td>
<td>Estimate of the percentage of annual gross revenue of the subject’s organization associated with representing management in labor relations and employee issues.</td>
</tr>
</tbody>
</table>
Estimate of the percentage of GROSS associated with the activity of arbitration preparation and presentation.

Estimate of the percentage of GROSS associated with the activity of investigation, preparation or presentation related to grievances, workers' compensation or OSHA issues.

Estimate of the percentage of GROSS associated with the activity of collective bargaining.

Estimate of the percentage of GROSS associated with union avoidance activities.

Estimate of the percentage of GROSS associated with the other research activities.

Estimate of the percentage of GROSS associated with the activity of employee surveillance.

Estimate of the percentage of GROSS associated with any other activity not covered by ARBPOR, INVESPOR, BARGPOR, AVOIDPOR, REASPOR, or SERVPOR.

Identification of the industrial areas, if any, in which the subject’s organization specializes.

Identification of the number of offices or locations of the subject’s organization.

Identification of the state in which the primary office of the subject’s organization is located.

Identification of the total number of employees of the subject’s organization.

Identification of the sex of the top principal/executive of the subject’s organization.

Identification of the sex of the second principal/executive of the subject’s organization.

Identification of the sex of the third principal/executive of the subject’s organization.
SEX4 Identification of the sex of the forth principal/executive of the subject's organization.

SEX5 Identification of the sex of the fifth principal/executive of the subject's organization.

SEX6 Identification of the sex of the sixth principal/executive of the subject's organization.

DEGREE1 Identification of the highest earned academic credential of the top principal/executive of the subject's organization.

DEGREE2 Identification of the highest earned academic credential of the second principal/executive of the subject's organization.

DEGREE3 Identification of the highest earned academic credential of the third principal/executive of the subject's organization.

DEGREE4 Identification of the highest earned academic credential of the forth principal/executive of the subject's organization.

DEGREE5 Identification of the highest earned academic credential of the fifth principal/executive of the subject's organization.

DEGREE6 Identification of the highest earned academic credential of the sixth principal/executive of the subject's organization.

REPEAT Estimate of the percentage of AVOIDPOR attributable to repeat clients.

REFER Estimate of the percentage of AVOIDPOR attributable to referrals by clients, i.e., "word of mouth."

ADVERT Estimate of the percentage of AVOIDPOR attributable to paid advertizing.

PUBLITY Estimate of the percentage of AVOIDPOR attributable to unpaid publicity, e.g., mention in an article.

DIRECT Estimate of the percentage of AVOIDPOR attributable to direct contact with a company known to be the subject of a union organizing campaign...
<table>
<thead>
<tr>
<th>OTHER</th>
<th>Estimate of the percentage of AVOIDPOR attributable to any other source not covered by REPEAT, REFER, ADVERT, PUBLITY, or DIRECT.</th>
</tr>
</thead>
<tbody>
<tr>
<td>BILLING</td>
<td>Identification of the billing basis for union avoidance campaigns used by subject’s organization.</td>
</tr>
<tr>
<td>CAMPGN</td>
<td>Estimate of the number of union avoidance campaigns in which the subject or the subject’s organization has been involved over the years on behalf of a management client.</td>
</tr>
<tr>
<td>PCTWIN</td>
<td>Estimate of the percent of CAMPGN in which the management client was successful in keeping the union out.</td>
</tr>
<tr>
<td>PERSAGRE</td>
<td>Whether the subject’s organization has reached an agreement or arrangement with a management client where an object thereof, directly or indirectly, was to persuade employees to exercise or not to exercise, or as to the manner of exercising, the right to organize and bargain through representatives of their own choosing.</td>
</tr>
<tr>
<td>LM2X</td>
<td>Whether the subject’s organization has ever filed an &quot;Agreement and Activities Report&quot; (LM-20) or a &quot;Receipts and Disbursements Report&quot; (LM-21) with the Office of Labor-Management Standards, U.S. Department of Labor.</td>
</tr>
<tr>
<td>LM10</td>
<td>Whether the subject’s organization has ever been named in an &quot;Employer Report&quot; (LM-10) filed with the Office of Labor-Management Standards, U.S. Department of Labor.</td>
</tr>
<tr>
<td>TITLE1</td>
<td>Identification of the title of the top principal/executive of the subject’s organization.</td>
</tr>
<tr>
<td>TITLE2</td>
<td>Identification of the title of the second principal/executive of the subject’s organization.</td>
</tr>
<tr>
<td>TITLE3</td>
<td>Identification of the title of the third principal/executive of the subject’s organization.</td>
</tr>
<tr>
<td>TITLE4</td>
<td>Identification of the title of the forth principal/executive of the subject’s organization.</td>
</tr>
<tr>
<td>Acronym</td>
<td>Description</td>
</tr>
<tr>
<td>---------</td>
<td>-------------</td>
</tr>
<tr>
<td>TITLE5</td>
<td>Identification of the title of the fifth principal/executive of the subject's organization.</td>
</tr>
<tr>
<td>TITLE6</td>
<td>Identification of the title of the sixth principal/executive of the subject's organization.</td>
</tr>
<tr>
<td>PUBS</td>
<td>Identification of the publications in which the subject's organization has paid to have its name or activitiesadvertized.</td>
</tr>
<tr>
<td>YELLPAGE</td>
<td>Identification of the yellow pages headings under which the subject's organization has paid to have its name placed.</td>
</tr>
</tbody>
</table>
APPENDIX B

TABLES
# TABLE 19

## COMPARISON OF GROUP MEANS ON 33 PREDICTOR VARIABLES

<table>
<thead>
<tr>
<th>Predictor Variable</th>
<th>Group Means</th>
<th>t-value</th>
<th>Probability</th>
</tr>
</thead>
<tbody>
<tr>
<td>FORM</td>
<td>2.6471</td>
<td>-0.69</td>
<td>.496</td>
</tr>
<tr>
<td>YRSTART</td>
<td>14.6471</td>
<td>0.11</td>
<td>.911</td>
</tr>
<tr>
<td>NAMECHG</td>
<td>0.9882</td>
<td>1.04</td>
<td>.310</td>
</tr>
<tr>
<td>ADDCHG</td>
<td>0.9412</td>
<td>0.71</td>
<td>.481</td>
</tr>
<tr>
<td>FORMCHG</td>
<td>0.1176</td>
<td>0.71</td>
<td>.487</td>
</tr>
<tr>
<td>ORGPHIL</td>
<td>1.3529</td>
<td>-0.09</td>
<td>.926</td>
</tr>
<tr>
<td>REPMGT</td>
<td>1.1765</td>
<td>0.99</td>
<td>.331</td>
</tr>
<tr>
<td>ARBPOR</td>
<td>2.7647</td>
<td>-2.23</td>
<td>.031*</td>
</tr>
<tr>
<td>INVESPOR</td>
<td>4.2941</td>
<td>-2.06</td>
<td>.046*</td>
</tr>
<tr>
<td>BARGPOR</td>
<td>14.6471</td>
<td>-2.24</td>
<td>.031*</td>
</tr>
<tr>
<td>AVOIDPOR</td>
<td>17.4706</td>
<td>0.85</td>
<td>.403</td>
</tr>
<tr>
<td>REASPOR</td>
<td>1.2941</td>
<td>-2.83</td>
<td>.007*</td>
</tr>
<tr>
<td>OTHPOR</td>
<td>6.2353</td>
<td>-0.94</td>
<td>.350</td>
</tr>
<tr>
<td>INDAREA</td>
<td>12.2941</td>
<td>1.14</td>
<td>.259</td>
</tr>
<tr>
<td>OFFICES</td>
<td>1.1176</td>
<td>-1.54</td>
<td>.133</td>
</tr>
<tr>
<td>STATE</td>
<td>26.4118</td>
<td>0.75</td>
<td>.455</td>
</tr>
<tr>
<td>EMPLOYEE</td>
<td>29.0588</td>
<td>-0.71</td>
<td>.482</td>
</tr>
<tr>
<td>SEX1</td>
<td>1.0000</td>
<td>0.57</td>
<td>.572</td>
</tr>
<tr>
<td>DEGREE1</td>
<td>5.8824</td>
<td>0.84</td>
<td>.407</td>
</tr>
<tr>
<td>REPEAT</td>
<td>41.4706</td>
<td>1.24</td>
<td>.225</td>
</tr>
<tr>
<td>REFER</td>
<td>29.7059</td>
<td>-0.64</td>
<td>.526</td>
</tr>
<tr>
<td>ADVERT</td>
<td>0.0000</td>
<td>-1.31</td>
<td>.198</td>
</tr>
<tr>
<td>PUBLITY</td>
<td>1.4736</td>
<td>-0.73</td>
<td>.472</td>
</tr>
<tr>
<td>DIRECT</td>
<td>10.8824</td>
<td>0.81</td>
<td>.424</td>
</tr>
<tr>
<td>OTHER</td>
<td>4.7059</td>
<td>-0.62</td>
<td>.538</td>
</tr>
<tr>
<td>CAMPGN</td>
<td>3.0000</td>
<td>0.48</td>
<td>.693</td>
</tr>
<tr>
<td>PCTWIN</td>
<td>87.8235</td>
<td>1.36</td>
<td>.181</td>
</tr>
<tr>
<td>PERSAGRE</td>
<td>1.2941</td>
<td>-2.07</td>
<td>.047*</td>
</tr>
<tr>
<td>LM10</td>
<td>1.7647</td>
<td>-1.68</td>
<td>.108</td>
</tr>
<tr>
<td>TITLE1</td>
<td>12.2941</td>
<td>-0.03</td>
<td>.977</td>
</tr>
<tr>
<td>PUBS</td>
<td>0.8824</td>
<td>0.13</td>
<td>.899</td>
</tr>
<tr>
<td>YELLPAGE</td>
<td>3.0000</td>
<td>-1.17</td>
<td>.251</td>
</tr>
</tbody>
</table>

* Statistically significant at least at the p = 0.05 level.

Group 0 = Labor relations consultants known to have engaged in persuader activity.

Group 1 = Labor relations consultants not known to have engaged in persuader activity.
### TABLE 20

**RESEARCH QUESTIONNAIRES MAILED**

| Labor Relations Consultants Appearing In This Combination of Samples: | Number of Labor Relations Consultants Within Each Sample In Combination |
|---|---|---|
| C | E | R | Y | C | E | R | Y |
| X | - | - | - | 90 | 90 | - | - | 90 |
| X | X | - | - | 134 | 134 | 134 | - | 268 |
| X | X | X | - | 21 | 21 | 21 | - | 63 |
| X | X | - | X | 11 | 11 | 11 | - | 33 |
| X | X | X | X | 10 | 10 | 10 | 10 | 40 |
| X | - | X | - | 4 | 4 | - | 4 | 8 |
| X | - | - | X | 2 | 2 | - | 2 | 4 |
| - | X | - | - | 57 | - | 57 | - | 57 |
| - | X | X | - | 11 | - | 11 | 11 | 22 |
| - | X | X | X | 2 | - | 2 | 2 | 6 |
| - | X | - | X | 3 | - | 3 | - | 3 |
| - | - | X | - | 101 | - | 101 | - | 101 |
| - | - | X | X | 7 | - | 7 | 7 | 14 |
| - | - | - | X | 326 | - | - | 326 | 326 |
| Totals | 779 | 272 | 249 | 156 | 361 | 1,038 |

Note - Sample labels indicate labor relations consultants in the indicate samples:
- C = named in forms LM-20/LM-21
- E = named in form LM-10
- R = named in RUB/S.T.I.R.
- Y = named in yellow pages
### TABLE 21

**RESEARCH QUESTIONNAIRES RETURNED UNDELCIVERABLE**

<table>
<thead>
<tr>
<th>Labor Relations Consultants Appearing In This Combination of Samples:</th>
<th>Number of Labor Relations Consultants In Combination With Each Sample</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C</td>
<td>E</td>
<td>R</td>
</tr>
<tr>
<td>X</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>X</td>
<td>X</td>
<td>-</td>
</tr>
<tr>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>X</td>
<td>-</td>
<td>X</td>
</tr>
<tr>
<td>X</td>
<td>-</td>
<td>X</td>
</tr>
<tr>
<td>X</td>
<td>-</td>
<td>X</td>
</tr>
<tr>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>

**Totals** 177 91 96 18 49 254

Note: Sample labels indicate labor relations consultants in the indicate samples;  
C = named in forms LM-20/LM-21  
E = named in form LM-10  
R = named in RUB/S.T.I.R.  
Y = named in yellow pages
TABLE 22

RESEARCH QUESTIONNAIRES DELIVERED

<table>
<thead>
<tr>
<th>Labor Relations Consultants Appearing In This Combination of Samples:</th>
<th>Number of Labor Relations Consultants In Combination</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C</td>
<td>E</td>
<td>R</td>
</tr>
<tr>
<td>X - - -</td>
<td>57</td>
<td>-</td>
</tr>
<tr>
<td>X X - -</td>
<td>87</td>
<td>87</td>
</tr>
<tr>
<td>X - X -</td>
<td>14</td>
<td>14</td>
</tr>
<tr>
<td>X X - X</td>
<td>11</td>
<td>11</td>
</tr>
<tr>
<td>X X X X</td>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td>X - X -</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>X - - X</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>- X - -</td>
<td>24</td>
<td>-</td>
</tr>
<tr>
<td>- X X -</td>
<td>5</td>
<td>-</td>
</tr>
<tr>
<td>- X X X</td>
<td>2</td>
<td>-</td>
</tr>
<tr>
<td>- - - X</td>
<td>281</td>
<td>-</td>
</tr>
</tbody>
</table>

Totals 602 181 153 138 312 784

Note-Sample labels indicate labor relations consultants in the indicate samples;

C = named in forms LM-20/LM-21
E = named in form LM-10
R = named in RUB/S.T.I.R.
Y = named in yellow pages
### Employer Report—Part A

The Labor-Management Reporting and Disclosure Act of 1959, as Amended (LMROA)

Office of Labor-Management Standards
Washington, D.C. 20210
(Rev. 1986)

This report is mandatory under P.L. 88-257, as amended. Failure to comply may result in criminal prosecution, fines and civil penalties as provided by 29 U.S.C. 439, 440.

File two copies.

Form approved. — OMB No. 1214-0001
12/31/86

File No. (To be assigned by U.S. Dept. of Labor)

Refer to instructions on page 3.

---

1. Full Name of Reporting Employer (including trade name, if any) and mailing address (Street Number, City, State, ZIP Code).

2. Address of Principal Office, if different from address in item 1.

3. Any other address or addresses at which records necessary to verify this report will be available for examination.

4. Report relating to fiscal period:

<table>
<thead>
<tr>
<th>Beginning</th>
<th>Ending</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mo. Day Yr.</td>
<td>Mo. Day Yr.</td>
</tr>
</tbody>
</table>

5. Indicate by checking appropriate box where records necessary to verify this report will be available for examination.

- Address in Item 1
- Address in Item 2
- Address in Item 3

6. Type of organization:

- Corporation
- Partnership
- Individual
- Other

Industrial Classification (Check appropriate box(es)):

- Manufacturing
- Mining
- Construction
- Transportation
- Communication and Utilities
- Wholesale and Retail Trade
- Finance, Insurance and Real Estate
- Services
- Other

---

8. READ CAREFULLY THE FOLLOWING QUESTIONS, TAKING INTO CONSIDERATION THE EXCLUSIONS LISTED FOR ITEMS 8A THROUGH 8F OF THE INSTRUCTIONS (SEE PAGE 2). IF YOUR ANSWER TO ANY OF THE QUESTIONS IS "YES," CHECK THE BOX IMMEDIATELY FOLLOWING THE QUESTION AND COMPLETE PART B, A COPY OF WHICH APPEARS ON THE REVERSE SIDE. COMPLETE A SEPARATE PART B FOR EACH "YES" ANSWER TO ANY OF THE QUESTIONS NUMBERED 8A THROUGH 8F. IF THE ANSWER IS "YES" TO MORE THAN ONE PERSON OR ORGANIZATION, COMPLETE A SEPARATE PART B FOR EACH "YES" ANSWER TO THAT QUESTION.

A. QUESTION.—During the past fiscal year did you make or promise to make, directly or indirectly, any payment (including reimbursed expenses) to any labor organization or to any officer, agent, shop steward, or other representative or employee of any labor organization?

- No
- Yes. If "Yes," enter the number of Part B's required for this question

B. QUESTION.—During the past fiscal year did you make, directly or indirectly, any payment (including reimbursed expenses) to any of your employees, or to any group or committee of your employees, for the purpose of causing them to persuade other employees to exercise or not to exercise, or as to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing without previously or at the same time disclosing such payment to all such other employees?

- No
- Yes. If "Yes," enter the number of Part B's required for this question

C. QUESTION.—During the past fiscal year did you make any expenditures where an object thereof, directly or indirectly, was to interfere with, restrain, or coerce employees in the right to organize and bargain collectively through representatives of their own choosing?

- No
- Yes. If "Yes," enter the number of Part B's required for this question

D. QUESTION.—During the past fiscal year did you make any expenditure where an object thereof, directly or indirectly, was to obtain information concerning the activities of employees or of a labor organization in connection with a labor dispute in which you were involved?

- No
- Yes. If "Yes," enter the number of Part B's required for this question

E. QUESTION.—During the past fiscal year did you make any agreement or arrangement with a labor relations consultant or other independent contractor or organization pursuant to which such person undertook activities where an object thereof, directly or indirectly, was to persuade employees to exercise or not to exercise, or as to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing; or did you make any payment (including reimbursed expenses) pursuant to such an agreement or arrangement?

- No
- Yes. If "Yes," enter the number of Part B's required for this question

F. QUESTION.—During the past fiscal year did you make any agreement or arrangement with a labor relations consultant or other independent contractor or organization pursuant to which such person undertook activities where an object thereof, directly or indirectly, was to furnish you with information concerning activities of employees or of a labor organization in connection with a labor dispute in which you were involved; or did you make any payment pursuant to such agreement or arrangement?

- No
- Yes. If "Yes," enter the number of Part B's required for this question

TOTAL NUMBER OF PART B'S REQUIRED FOR THIS REPORT IS

---

Form LM-10—Part A
Refer to Instructions on Page 3

   a. Name and address of person, committee, group or organization with whom or through whom a separate agreement was made or to whom payments or expenditures were made.
   b. Position in labor organization or with employer (if an independent labor consultant, so state).
   c. Name and address of firm or labor organization with whom employed or affiliated.

10. Date of the promise, agreement or arrangement pursuant to which payments or expenditures were agreed to or made.
   □ Oral □ Written

   a. Date of each payment or expenditure
   b. Amount of each payment or expenditure
   c. Kind of each payment or expenditure (Specify whether payment or loan, and whether in cash or property)

12. Explain fully the circumstances of all payments, including the terms of any oral agreement or understanding pursuant to which they were made. Attach any additional narrative sheets that are necessary to fully explain the required information.

SIGNATURE AND VERIFICATION

The above employer and each of his undersigned duly authorized officers, declares, under the penalties of law, that all of the information in this report, including all documents referred to therein and attached hereto, has been examined by him and is, to the best of his knowledge and belief, true, correct, and complete.

SIGNED ___________________________ PRESIDENT SIGNED ___________________________ TREASURER

At ___________________________ City ___________________________ State ___________________________ Date ___________________________.

If other titles, cross out and write in correct title above.) At ___________________________ City ___________________________ State ___________________________ Date ___________________________.

NOTE—Only one Part B of an LM-10 report need be signed and verified since the Part B so executed will be deemed to cover and include all Part B's filed with the report.
Employer Report
Form LM-10

Labor-Management Reporting and Disclosure Act of 1959, As Amended (LMRDA)
(Public Law 86-257)

U.S. Department of Labor
Office of Labor-Management Standards
GUIDE TO PREPARING THE EMPLOYER REPORT

Why File.—The Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA) has among its purposes the disclosure of certain financial transactions or arrangements between employers and labor organizations, union officials, employees, or labor relations consultants. Section 203 of the Act requires every employer who has engaged in any such transaction or arrangement to file a detailed report with the Secretary of Labor. To facilitate such reporting the Secretary as authorized by the Act has prescribed the attached Employer Report Form LM-10.

The reporting requirements of the Act and of the regulations and forms issued under the Act are concerned only with the disclosure of specified payments, transactions, or arrangements, and not with whether such payments, transactions, or arrangements are lawful or unlawful. The fact that a particular payment, transaction, or arrangement is required or is not required to be reported does not indicate whether it is or is not subject to any legal prohibition; this must be tested by provisions of law other than those prescribing the reports.

Who Must File.—Not all employers subject to the Act are required to file a report. Only those employers as defined in the Act who have been involved in certain financial transactions or arrangements with labor organizations, union officials, employees or labor relations consultants, or who have made expenditures for certain objects relating to employees' or unions' activities must complete the attached Employer Report Form LM-10. Read these instructions and the form carefully before completing either Part of the report.

What Must Be Filed.—The types of financial transactions, arrangements, or expenditures which must be reported are set forth in the attached report form. The Act requires that every employer who in any fiscal year engaged in such transactions file with the Secretary of Labor a report showing in detail the date of and the amount involved in each such transaction; the name, address, and position of the person with whom it was made; and a full explanation of the circumstances of all payments made, including the terms of any agreement or understanding pursuant to which they were made.

The report form is divided into Part A and Part B. Part A contains six questions pertaining to reportable employer activities. Before completing any portion of the report, these questions should be examined thoroughly and answered, taking into account the exclusions listed in the instructions for Part A. If the answers to all of these questions are in the negative, do not complete either Part A or Part B, or file any report. If the answer to any of these questions, taking into account the exclusions applicable thereto, is in the affirmative, Part A must be completed and a separate Part B must be completed for each affirmative answer.

In completing Part B, the payments to, or agreements or arrangements with, only one person, organization, or group of persons should be reported separately. Payments, agreements, or arrangements, to or with additional persons, organizations, or group of persons, should be reported on additional Part B sheets, and these additional Part B sheets should be numbered consecutively with respect to each question. For example: An employer who made reportable payments to a labor organization, a union business agent, and a union shop steward would report in answer to question 8A the payments to the labor organization on one sheet of Part B, the payments to the business agent on a second sheet of Part B, and the payments to the shop steward on a third sheet of Part B, and he would number these sheets A-1, A-2, and A-3 respectively.

Enclosed are three copies each of Part A and Part B of Form LM-10. If more than one Part B is needed, additional copies may be obtained from the Office of Labor-Management Standards, U.S. Department of Labor, Washington, D.C. 20210. Employers also have the option of reproducing exact facsimiles of Part B with their own facilities.

While Section 203 of the Act does not amend, or modify the rights protected by Section 8(c) of the National Labor Relations Act, as amended, the Act contains no provision exempting the activities protected by that section from the reporting requirements. Therefore, activities of the type set forth in the questions in Part A of this report must be reported, since such reports are required by law, regardless of whether the activities are protected by Section 8(c) of the National Labor Relations Act, as amended. It should be noted, however, that the information required to be reported in response to question 8C does not include expenditures relating exclusively to matters protected by Section 8(c) of the National Labor Relations Act, as amended, because the definition in Section 203(g) of the term "interfere with, restrain, or coerce," which is used in question 8C, does not cover such matters.

Who Must Sign the Report.—This report is to be signed by the president and treasurer of the reporting firm, but if the reporting firm does not have such officers, then the report is to be signed by the two principal officers whose duties and responsibilities correspond to those of president and treasurer. A report from a sole proprietor need only bear his signature.

When To File.—Each employer subject to the Act who has engaged in any of the transactions or arrangements described in the form must submit a report on Form LM-10 within 90 days after the close of the firm's fiscal year.

Where To File Reports and Copies.—An original and one copy of the completed report, together with two copies of all attachments, must be filed with the Office of Labor-Management Standards, United States Department of Labor, Washington, D.C. 20210.

Legibility.—The forms should be filled in on a typewriter or printed in ink.

Insufficient Space.—If additional space is needed for any item in either Part of the form, indicate on that sheet that additional information is given on an attached sheet. Be sure that the attached sheet identifies the item number and the Part to which the attachment applies and that the name and address of the reporting organization are clearly shown on the top of each attached sheet.

Special Reports.—In addition to this report, the Secretary may require from employers subject to the Act the submission of special reports on pertinent information, including but not necessarily confined to reports with respect to specifically identified personnel on the matters referred to in the second paragraph under the instructions for question 8A.

PENALTIES

The law provides penalties for a willful failure to file a required report and for making any false statement or representation of a material fact, knowing it to be false, or by knowingly failing to disclose a material fact, in this report or in the information required to be contained in it or any document required to be submitted with it. Penalties are also provided for willfully making any false entry in or concealing, withholding, or destroying any books, records, reports, or statements required to be kept.
**Report of Employers**

Sec. 203. (a) Every employer who in any fiscal year made—

(1) any payment or loan, direct or indirect, of money or other thing of value (including reimbursed expenses), or any promise or agreement therefor, to any labor organization or officer, agent, shop steward, or other representative of a labor organization, or employee of any labor organization, except (A) payments or loans made by any national or State bank, credit union, insurance company, savings and loan association or other credit institution and (B) payments of the kind referred to in section 302(c) of the Labor Management Relations Act, 1947, as amended;

(2) any payment (including reimbursed expenses) to any of his employees, or any group or committee of such employees, for the purpose of causing such employee or group or committee of employees to persuade other employees to exercise or not to exercise, or as the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing unless such payments were contemporaneously or previously disclosed to such other employees;

(3) any expenditure, during the fiscal year, where an object thereof, directly or indirectly, is to interfere with, restrain, or coerce employees in the exercise of the right to organize and bargain collectively through representatives of their own choosing, or to obtain information concerning the activities of employees or a labor organization in connection with a labor dispute involving such employer, except for use solely in conjunction with an administrative or arbitral proceeding or a criminal or civil judicial proceeding;

(4) any agreement or arrangement with a labor relations consultant or other independent contractor or organization pursuant to which such person undertakes activities where an object thereof, directly or indirectly, is to persuade employees to exercise or not to exercise, or persuade employees as to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing, or undertakes to supply such employer with information concerning the activities of employees or a labor organization in connection with a labor dispute involving such employer, except information for use solely in conjunction with an administrative or arbitral proceeding or a criminal or civil judicial proceeding;

(5) any payment (including reimbursed expenses) pursuant to an agreement or arrangement described in subdivision (4);

shall file with the Secretary a report, in a form prescribed by him, signed by his president and treasurer or corresponding principal officers showing in detail the date and amount of each such payment, loan, promise, agreement, or arrangement and the name, address, and position, if any, in any firm or labor organization of the person to whom it was made and a full explanation of the circumstances of all such payments, including the terms of any agreement or understanding pursuant to which they were made.

Every person who pursuant to any agreement or arrangement with an employer undertakes activities where an object thereof is, directly or indirectly—

(1) to persuade employees to exercise or not to exercise, or persuade employees as to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing; or

(2) to supply an employer with information concerning the activities of employees or a labor organization in connection with a labor dispute involving such employer, except information for use solely in conjunction with an administrative or arbitral proceeding or a criminal or civil judicial proceeding;

shall file within thirty days after entering into such agreement or arrangement a report with the Secretary, signed by its president and treasurer or corresponding principal officers, containing the name under which such person is engaged in doing business and the address of its principal office, and a detailed statement of the terms and conditions of such agreement or arrangement. Every such person shall file annually, with respect to each fiscal year during which payments were made as a result of such an agreement or arrangement, a report with the Secretary, signed by its president and treasurer or corresponding principal officers, containing a statement (A) of its receipts of any kind from employers on account of labor relations advice or services, designating the sources thereof, and (B) of its disbursements of any kind, in connection with such services and the purposes thereof. In each such case such information shall be set forth in such categories as the Secretary may prescribe.

(c) Nothing in this section shall be construed to require any employer or other person to file a report covering the services of such person by reason of his giving or agreeing to give advice to such employer or representing or agreeing to represent such employer before any court, administrative agency, or tribunal of arbitration or engaging or agreeing to engage in collective bargaining on behalf of such employer with respect to wages, hours, or other terms or conditions of employment or the negotiation of an agreement or any question arising thereunder.

(d) Nothing contained in this section shall be construed to require an employer to file a report under subsection (a) unless he has made an expenditure, payment, loan, agreement, or arrangement of the kind described therein. Nothing contained in this section shall be construed to require any other person to file a report under subsection (b) unless he was a party to an agreement or arrangement of the kind described therein.

(e) Nothing contained in this section shall be construed to require any regular officer, supervisor, or employee of an employer to file a report in connection with services rendered to such employer nor shall any employer be required to file a report covering expenditures made to any regular officer, supervisor, or employee of an employer as compensation for service as a regular officer, supervisor, or employee of such employer.

(f) Nothing contained in this section shall be construed as an amendment to, or modification of the rights protected by, section 8(a) of the National Labor Relations Act, as amended.

(g) The term "interferes with, restrain, or coerce" as used in this section means interference, restraint, and coercion which, if done with respect to the exercise of rights guaranteed in section 7 of the National Labor Relations Act, as amended, would, under section 8(a) of such Act, constitute an unfair labor practice.
SECTION 302(c) OF THE LABOR-MANAGEMENT RELATIONS ACT, 1947, AS AMENDED

"(c) The provisions of this section shall not be applicable (1) in respect to any money or other thing of value payable by an employer to any of his employees whose established duties include acting openly for such employer in matters of labor relations or personnel administration or to any representative of his employees, or to any officer or employee of a labor organization, who is also an employee or former employee of such employer, as compensation for, or by reason of, his service as an employee of such employer; (2) with respect to the payment or delivery of any money or other thing of value in satisfaction of a judgment of any court or a decision or award of an arbitrator or impartial chairman or in compromise, adjustment, settlement, or release of any claim, complaint, grievance, or dispute in the absence of fraud or duress; (3) with respect to the sale or purchase of an article or commodity at the prevailing market price in the regular course of business; (4) with respect to money deducted from the wages of employees in payment of membership dues in a labor organization: Provided, That the employee has received from each employee, on whose account such deductions are made, a written assignment which shall not be irrevocable for a period of more than one year, or account such deductions are made, a written assignment which shall not be irrevocable for a period of more than one year, or

Provided, That the employer shall be required to bargain on the establishment of such a representative for the purpose of determining (A) the detail, kind, or insurance, or (B) the provisions of the plans to be made to a separate trust which provides that the funds held therein cannot be used for any purpose other than paying such pensions or annuities; or (6) with respect to money or other thing of value paid by any employer to a trust fund established by such a representative for the purpose of pooled vacation, holiday, severance or similar benefits, or defraying costs of apprenticeship or other training programs: Provided, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds; (7) with respect to money or other thing of value paid by any employer to a pooled or individual trust fund established by such representative for the purpose of (A) scholarships for the benefit of employees, their families, and dependents for study at educational institutions, or (B) child care centers for preschool and school age dependents of employees; Provided, That no labor organization or employer shall be required to bargain on the establishment of any such trust fund, and refusal to do so shall not constitute an unfair labor practice: Provided further, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds; (8) with respect to money or any other thing of value paid by any employer to a trust fund established by such representative for the purpose of defraying the costs of legal services for employees, their families, and dependents for counsel or plan of their choice: Provided, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds: Provided further, That no such legal services shall be furnished: (A) to initiate any proceeding directed (i) against any such employer or its officers or agents except in workers' compensation cases, or (ii) against such labor organization, or the parent or subordinate bodies, or their officers or agents, or (B) against any other employer or labor organization, or their officers or agents, in any matter arising under the National Labor Relations Act, as amended, or this Act, and (B) in any proceeding where a labor organization would be prohibited from defraying the costs of legal services by the provisions of the Labor-Management Reporting and Disclosure Act of 1959; or (9) with respect to money or other things of value paid by an employer to a plant, area or industry-wide labor-management committee established for one or more of the purposes set forth in section 5(b) of the Labor Management Cooperation Act of 1978."

Assistance may be obtained from the field offices of the U.S. Department of Labor's Office of Labor-Management Standards, located in the following cities:

<table>
<thead>
<tr>
<th>City</th>
<th>State</th>
</tr>
</thead>
<tbody>
<tr>
<td>Birmingham, AL</td>
<td>AL</td>
</tr>
<tr>
<td>Los Angeles, CA</td>
<td>CA</td>
</tr>
<tr>
<td>San Francisco, CA</td>
<td>CA</td>
</tr>
<tr>
<td>Denver, CO</td>
<td>CO</td>
</tr>
<tr>
<td>New Haven, CT</td>
<td>CT</td>
</tr>
<tr>
<td>Washington, DC</td>
<td>DC</td>
</tr>
<tr>
<td>Miami, FL</td>
<td>FL</td>
</tr>
<tr>
<td>Tampa, FL</td>
<td>FL</td>
</tr>
<tr>
<td>Atlanta, GA</td>
<td>GA</td>
</tr>
<tr>
<td>Honolulu, HI</td>
<td>HI</td>
</tr>
<tr>
<td>Chicago, IL</td>
<td>IL</td>
</tr>
<tr>
<td>Fort Wright, KY</td>
<td>KY</td>
</tr>
<tr>
<td>New Orleans, LA</td>
<td>LA</td>
</tr>
<tr>
<td>Boston, MA</td>
<td>MA</td>
</tr>
<tr>
<td>Detroit, MI</td>
<td>MI</td>
</tr>
<tr>
<td>Grand Rapids, MI</td>
<td>MI</td>
</tr>
<tr>
<td>Minneapolis, MN</td>
<td>MN</td>
</tr>
<tr>
<td>St. Louis, MO</td>
<td>MO</td>
</tr>
<tr>
<td>Kansas City, MO</td>
<td>MO</td>
</tr>
<tr>
<td>East Orange, NJ</td>
<td>NJ</td>
</tr>
<tr>
<td>Buffalo, NY</td>
<td>NY</td>
</tr>
<tr>
<td>New York, NY</td>
<td>NY</td>
</tr>
<tr>
<td>Cleveland, OH</td>
<td>OH</td>
</tr>
<tr>
<td>Philadelphia, PA</td>
<td>PA</td>
</tr>
<tr>
<td>Pittsburgh, PA</td>
<td>PA</td>
</tr>
<tr>
<td>Hato Rey, PR</td>
<td>PR</td>
</tr>
<tr>
<td>Nashville, TN</td>
<td>TN</td>
</tr>
<tr>
<td>Dallas, TX</td>
<td>TX</td>
</tr>
<tr>
<td>Houston, TX</td>
<td>TX</td>
</tr>
<tr>
<td>Seattle, WA</td>
<td>WA</td>
</tr>
</tbody>
</table>
APPENDIX D

AGREEMENT AND ACTIVITIES REPORT (LM-20) AND INSTRUCTIONS
This report is mandatory under P.L. 86-257 as amended. Failure to comply may result in criminal prosecution, fines and civil penalties as provided by 29 U.S.C. 439, 440.

acquired of persons, including Labor Relations Consultants and other individuals and organizations. Under Section 203(b) of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA).

A. Person Filing
1. Name and mailing address (include ZIP code):

2. Any other address where records necessary to verify this report are kept:

3. Date fiscal year ends:

4. Type of person:
   a. ☐ Individual
   b. ☐ Partnership
   c. ☐ Corporation
   d. ☐ Other (Specify):

B. Nature of Agreement or Arrangement
5. Full name and address of employer with whom made (include ZIP code):

6. Date entered into:

7. Names of persons through whom made:

8. Check the appropriate box to indicate whether an object of the activities undertaken, is directly or indirectly:
   a. ☐ To persuade employees to exercise or not to exercise, or persuade employees as to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing.
   b. ☐ To supply an employer with information concerning the activities of employees or a labor organization in connection with a labor dispute involving such employer, except information for use solely in conjunction with an administrative or arbitral proceeding or a criminal or civil judicial proceeding.

9. Terms and conditions (Explain in detail; see Part B-9 of Instructions):

C. Specific Activities to be Performed
10. For each activity, separately list in detail the information required (See Part C-10 of Instructions):
   a. Nature of activity:

   b. Period during which performed:

   c. Extent performed:

   d. Names and addresses of persons through whom performed:

11. Identify (a) Subject employees, groups of employees, and (b) labor organizations:

D. Verification and Signature. The person in Item 1 above and each of his undersigned authorized officers declares, under penalty of law, that all information in this report, including all attachments incorporated therein or referred to in this report, has been examined by him and is, to the best of his knowledge and belief, true, correct, and complete.

Signed:

President

(Treasury, cross out and write in correct title above.)

City State Date

Signed:

Treasurer

City State Date
Instructions for Preparing Form LM-20: The Agreement and Activities Report

Required of Persons, Including Labor Relations Consultants and Other Individuals and Organizations, Under Section 203 of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA) and 29 CFR 406.

Read these instructions and Form LM-20 carefully before completing any part of the report. Lettered and numbered instructions are keyed to items on the form.

Why File

The Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA) has among its purposes the disclosure of agreements or arrangements made by any person, including labor relations consultants and other individuals and organizations, with any employer to undertake certain activities concerning employees or labor organizations, which concern wages, hours, or other terms or conditions of employment or the negotiation of an agreement or an arrangement to undertake activities described in the Act. Wherever it is found to be true that any such agreement or arrangement is made, such information must be reported to the Labor Department.

A. Persons Filing—Who Must File

The attached report is required to be filed by any person who, as a direct or indirect party to any agreement or arrangement with an employer subject to the Act, undertakes to perform such an agreement or arrangement, any activities of the type described in Section 203 of the Act. The term “person” is defined in Section 3(d) of the Act and includes, among others, labor relations consultants as well as other individuals and organizations.

Persons who are considered direct or indirect parties to any agreement or arrangement with an employer and who are therefore required to file this report include persons who have secured the services of another or others in connection with any agreement or arrangement referred to in Section 203 of the Act as well as persons who have undertaken activities at the behest of any or all of those persons.

B. Nature of Agreement or Arrangement

A separate report must be filed with respect to each agreement or arrangement with an employer to undertake activities where an object thereof, directly or indirectly, is one or both of the following:

1. To persuade employees to exercise or not to exercise, or to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing. (Excluded, however, are agreements or arrangements concerning the conduct of elections by: (1) advising the employer; (2) representing the employer before any court, administrative agency, or tribunal of arbitration, or (3) engaging in collective bargaining on the employer's behalf with respect to wages, hours, or other terms or conditions of employment or the negotiation of an agreement or any questions arising thereunder.)

2. To supply the employer with information concerning activities of employee or of a labor organization in connection with a labor dispute in which such employer is involved. (Excluded, however, are agreements or arrangements to supply information exclusively for use in connection with an administrative, antitrust, or judicial proceeding.)

Note: The exclusions are applicable only to an agreement or arrangement which covers no reportable activities, if the agreement or arrangement provides for any reportable activities, the information required for the entire agreement or arrangement must be reported.

While Section 203 of the Act does not amend, or modify the regime prescribed by, Section 8(c) of the National Labor Relations Act, as amended, the Act contains no provision requiring any activity proscribed by that section from the reporting requirements. Therefore, activities of the type set forth in Section 203 of the Act must be reported regardless of whether they are protected by Section 8(c) of the National Labor Relations Act, as amended. (For text of Section 8(c) of the NLRA see Section Definitions and Related provisions at the end of the instructions.)

5. Full Name and Address of Employer: Enter the full name and address of the employer with whom such agreement was made, including employer’s trade name, if any.

6. Date Entered Into: Enter the month, day and year when the agreement or arrangement was made.

7. Names of Persons Through Whom Matters: Enter the name of each person who participated for the employer in existing such arrangement or agreement with whom he is an individual officer, partner, corporate officer, employee or other person acting for the employer.

8. Object of Activities: Indicate, by checking the appropriate box, whether an object of the reported agreement or arrangement is to (a) persuade employees as to the existence of their bargaining rights or to supply an employer with information relative to a labor dispute; or (b) both of the boxes must be checked.

C. Specific Activities to be Performed

10. Description of Activities: List in detail for each separate activity to be performed: (a) the specific nature of the activity to be performed, (b) the period in which it is to be performed, (c) the extent to which it has already been performed, (d) the names and addresses of persons through whom performed, and the names under which they are or have been carrying out those activities.

11. Employees: Identify the employees, groups of employees and labor organizations who are to be persuaded or concerning without activities in a labor dispute, information is to be supplied to the employer.

D. Verification and Signature

This report is to be signed by the president and treasurer, or corresponding principal officers, of the reporting organization. If the report is not signed by a person having the title of president or treasurer, cross out the applicable title and insert the correct one. If this report is signed by an individual in his own behalf, it need only bear his signature. The city and State and month, day, and year where and when the report is signed will also be entered.

E. Personal Responsibility

Under Section 203(d) of the Act, each individual required to sign this report is personally responsible for the signing of the report and for any statement contained therein which he knows to be false.

F. When to File

Every person, including labor relations consultants and other individuals and organizations, subject to the Act who has entered into any agreement or arrangement to undertake activities described in the form must submit a report on Form LM-20 within 30 days after entering into such agreement or arrangement. If there is a change in any information on the report or it contains an error as shown by information subsequently added thereto by item 10(c) of the form, it must be filed on a report covering named "Amended Report" within 30 days of the change.

G. Where to File Reports and Copies

An original and a copy of the completed report, together with an original and copy of all attachments, must be filed with the Office of Labor-Management Standards, U.S. Department of Labor, Washington, D.C. 20210.
H. Legibility
The form should be filled in on a typewriter or printed in ink.

I. Insufficient Space
Where additional space is needed to answer any item of the form, indicate in the space provided for that item that additional information is given on an attached sheet. Be sure that the attached sheet identifies the item and part to which the attachment applies and that the name and address of the reporting person are clearly shown at the top of each attached sheet.

J. Retention of Records
The law provides that every person required to file this report shall maintain records on the matters required to be reported which will provide in sufficient detail the necessary basic information and data from which the documents filed with the Secretary of Labor may be verified, explained or clarified, and checked for accuracy and completeness, and shall include vouchers, worksheets, receipts, and comparable resolutions, and shall keep such records available for examination for a period of at least five years after the filing of the documents based on the information which they contain.

K. Penalties
The law provides penalties for a willful failure to file a required report and for making any false statement or representations of a material fact, knowing it to be false, or for knowingly failing to disclose a material fact in this report or in the information required to be contained in it or any document required to be submitted with it. Penalties are also provided for willfully making any false entry or concealing, withholding, or destroying any books, records, or statements required to be kept.

L. Other Reports
Every person, including labor relations consultants and other individuals and organizations, who is required to file the attached Agreement and Activities Report, Form LM-20, or is required to file annually with the Secretary of Labor a Report and Disbursement Report, Form LM-21, for each fiscal year during which payments were made or received as a result of any such agreement or arrangement, must file within 90 days after the end of your fiscal year copies of this form may be obtained from the Office of Labor Management Standards, U.S. Department of Labor, Washington, D.C. 20210, or from any field office of the Office of Labor Management Standards.

Selected Definitions and Related Provisions of the Labor-Management Reporting and Disclosure Act of 1959, As Amended (LMRDA)

Section 3.
(a) 'Commerce' means trade, traffic, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof.

(b) 'State' includes any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, the Canal Zone, and Outer Continental Shelf Lands defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343).

(c) 'Industry affecting commerce' includes any activity, business or industry in commerce or in which a labor dispute could hinder or delay commerce or the free flow of commerce and includes any activity or industry 'affecting commerce' within the meaning of the Labor-Management Relations Act, 1947, as amended, or the Railway Labor Act, as amended.

(d) 'Person' includes one or more individuals, labor organizations, partnerships, associations, corporations, trusts or unincorporated associations, labor organizations, trade, business, or professional associations in existence under the laws of the United States, or receivers.

(e) 'Employer' means any employer or any group of employers engaged in an industry affecting commerce (1) which is, with respect to employees engaged in such industry affecting commerce, an employer within the meaning of any law of the United States relating to the employment of any employees or (2) which may deal with any labor organization concerning the grievance of any employee or concerning the terms, conditions, or duration of employment of any employee, or concerning the payment of wages, hours of employment, or conditions of work, and includes any person acting directly or indirectly as an employer or as an agent of an employer in a labor organization, or any person who does not include any report of the United States or any corporation wholly owned by the Government of the United States or any State or political subdivision thereof.

(f) 'Employee' means any individual employed by an employer, and includes any individual whose work has ceased to be a consequence of, or in connection with, any current labor dispute or because of exclusion or expulsion from a labor organization or in any manner of for any reason inconsistent with the requirements of the Act.

(g) 'Labor dispute' includes any controversy concerning terms, tenure, or conditions of employment or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, altering, or terminating terms or conditions of employment, or the acquisition of such terms or conditions.

(h) 'Labor organization' means a labor organization engaged in an industry affecting commerce and includes any labor organization, labor organizations, any group of employees engaged in an industry affecting commerce, or engaged in any similar organization, or association, or group so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, hours of work, or other terms or conditions of employment, and any agreement, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization, other than a State or local central body.

(j) A labor organization shall be deemed to be engaged in an industry affecting commerce if it:

(1) is the certified representative of employees under the provisions of the National Labor Relations Act, as amended, or the Railway Labor Act, as amended; or

(2) although not certified, is a national or international labor organization or a local labor organization recognized as acting as the representative of employees of an employer engaged in an industry affecting commerce,

(3) has chartered a local labor organization or subsidiary body which is representing or actively seeking to represent employees of employers within the meaning of paragraph (1) or (2); or

(4) has been chartered by a labor organization representing or actively seeking to represent employees within the meaning of paragraph (1) or (2) as the local or subordinate body through which such employees may enjoy membership or become affiliated with such labor organization; or

(5) is a conference, general committee, joint council, or joint council, subordinate to a national or international labor organization, which includes a labor organization engaged in an industry affecting commerce within the meaning of any of the preceding paragraphs of this subsection, other than a State or local central body.

Section 204.
Nothing contained in this Act shall be construed to require an attorney who is a member in good standing of the bar of any State, to include in any report required to be filed pursuant to the provisions of this Act any information which was lawfully communicated to such attorney by any of his clients in the course of a legitimate attorney-client relationship.

National Labor Relations Act

Section 9(a).
The expressing of any views, argument, or opinion, or the discussion thereof, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit.
APPENDIX E

RECEIPTS AND DISBURSEMENTS REPORT (LM-21) AND INSTRUCTIONS
Receipts and Disbursements Report

U.S. Department of Labor

Office of Labor-Management Standards
Washington, D.C. 20210

1. NAME AND ADDRESS (Include ZIP code)

2. ANY OTHER ADDRESS WHERE RECORDS NECESSARY TO VERIFY THIS REPORT ARE KEPT:

3. FILE NO.

4. PERIOD COVERED BY THIS REPORT

<table>
<thead>
<tr>
<th>Months</th>
<th>Day</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

5. STATEMENT OF RECEIPTS. Report all receipts from employers in connection with labor relations advice or services.

6. NAME AND ADDRESS OF EMPLOYER (Include ZIP code)

7. TERMINATION DATE

8. AMOUNT

9. DISBURSEMENTS TO OFFICERS AND EMPLOYEES:

<table>
<thead>
<tr>
<th>(a) Name</th>
<th>(b) Salary</th>
<th>(c) Expenses</th>
<th>(d) Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>

10. Total Disbursements to officers and employees

11. Other Disbursements

12. Total Disbursements

13. STATEMENT OF DISBURSEMENTS. Report all disbursements made by the reporting organization in connection with labor relations advice or services rendered to the employers listed in Part 5.

14. SCHEDULE FOR STATEMENT OF DISBURSEMENTS. Use this Schedule to report only disbursements made for the purposes described in Part D of the instructions.

15. EMPLOYER

16. TO WHOM PAID

17. AMOUNT

18. PURPOSE

TOTAL

SIGNED:

(PRESIDENT

SIGNED:

(TREASURER

IF MORE SPACE IS NEEDED ATTACH ADDITIONAL SHEETS

VERIFICATION AND SIGNATURE. The person in Item 1 above and each of his undersigned authorized officers declares, under penalty of law, that all information in this report, including all attachments incorporated therein or referred to in this report, has been examined by him and is, to the best of his knowledge and belief, true, correct, and complete.

SIGNED:

(CITY STATE ZIP CODE)

CITY STATE ZIP CODE

CITY STATE ZIP CODE

CITY STATE ZIP CODE
INSTRUCTIONS FOR PREPARING THE RECEIPTS AND DISBURSEMENTS REPORT (FORM LM-21)

Required of Persons, Including Labor Relations Consultants and Other Individuals and Organizations, Under Sections of the Labor-Mangement Reporting and Disclosure Act of 1959, as amended (LMRDA) and 29 CFR 406.

Read these instructions and Form LM-21 carefully before completing any part of this report. Lettered and numbered instructions are keyed to items on the form.

WHY FILE. The Labor-Mangement Reporting and Disclosure Act of 1959, as amended (LMRDA) requires every person, including labor relations consultants and other individuals and organizations, responsible for the arrangement or performance of labor relations advice or services with an employer under certain circumstances to comply with the Act and report receipts and disbursements for various activities. The Act was enacted to provide the Secretary of Labor with a means of determining if an employer (1) is receiving labor relations advice or services, (2) is responsible for the arrangement or performance of such services, and (3) if reporting under the Act is being accurately reported. The Act requires that the information so obtained be kept confidential.

Three reporting requirements of the Act and of the regulations and forms issued under the Act are concerned only with the disclosure of specified payments and activities undertaken pursuant thereto, and not with whether such payments, arrangements, or activities are lawful or unlawful. The fact that a particular payment, arrangement, or activity is required or is not required to be reported does not indicate whether it is or is not subject to any legal prohibition; this must be tested by provisions of law other than those prescribing the reports.

A—PERSONS FILING—WHO MUST FILE. The attached report is required to be filed by any person who, as a direct or indirect party to an agreement or arrangement with an employer subject to the Act, undertakes any activities of the kinds described in Section 206(b) of the Act and includes, among others, labor relations consultants as well as other individuals and organizations. Persons who are not direct or indirect parties to an agreement or arrangement with an employer and who perform the services of another or of others in connection with an agreement or arrangement referred to in Section 206(b) of the Act, as well as persons who have undertaken activities at the behest of another who is not described in Section 206(b) of the Act and includes, among others, labor relations consultants as well as other individuals and organizations. Persons who are not direct or indirect parties to an agreement or arrangement with an employer and who perform the services of another or of others in connection with an agreement or arrangement referred to in Section 206(b) of the Act, as well as persons who have undertaken activities at the behest of another who is not described in Section 206(b) of the Act.

(1) The reporting organization may allocate, on any reasonable basis, that portion of the receipt or disbursement that is attributable to labor relations advice or services and attach an explanation of the basis of allocation to the report. (2) If allocation is not feasible, the reporting organization may report the entire receipt or disbursement as an explanation that the receipt or disbursement in question includes amounts not connected with labor relations advice or services.

B—STATEMENTS OF RECEIPTS. (ALSO SEE SPECIAL INSTRUCTIONS IN BOX BELOW.)

5. Name and Address of Employer. Enter the name and address of each employer from whose receipts were received directly or indirectly on account of labor relations advice or service. Include ZIP code in address.

6. Termination Dates: Entries at this line will only be made with respect to employers with whom an agreement or arrangement existed to undertake activities of the kind described in the general instructions above. If such an agreement was terminated during the fiscal year covered by this report, enter the date the agreement ceased, accompanied by the name of the employer.

7. Amount: Enter the amount of receipts from each employer on account of or in connection with labor relations advice or services during the fiscal year. If receipt was not in cash, indicate its nature and kind, and list its cash value. On the last line of this column enter the total receipts from employers.

C—STATEMENT OF DISBURSEMENTS. (ALSO SEE SPECIAL INSTRUCTIONS IN BOX ABOVE.)

8. Disbursements to Officers and Employees: Items under this heading include all salaries, wages, and other disbursements (including reimbursed expenses) to all officers and employees of the reporting organization in connection with labor relations advice or services furnished to any employer.

Column (a)—List the name of the officer or employees.

Column (b)—Report in this column the gross salary before taxes and other deductions.

Column (c)—List any allowance or direct or indirect disbursement for expenses (including reimbursed expenses) paid to each officer or employee. Include all disbursements for travel, hotel, meals, and similar expenses for goods, services, or other items of value paid in connection with the officer's or employee's services rendered to an employer. Do not include expenses for hotel room or for transportation of officers or employees of the reporting organization by public carrier for which payment was made to the hotel or public carrier or its agents by the reporting organization either directly or through its credit arrangements other than to the officer or employees designated in Column (a). Also do not include disbursements for expenses incurred in connection with goods or services or other things of value furnished to the reporting organization or for services rendered to a bail in which a speech on behalf of the employer-tenant is to be given. The excluded items should be reported under other appropriate categories.

Column (d)—Enter the total salary, allowances, and all other disbursements to each officer and employee. On the last line of this column, total all salaries, allowances, and disbursements paid to all officers and employees listed in Column (a).

9. Office and Administrative Expenses: Enter disbursements made for all office and administrative expenses (including labor relations advice or services except salaries, allowances, and disbursements to officers or employees, which are reported in Column (a)). Include such expenses as heat, light, rent, telephone, and office supplies.

10. Publicity: Enter total disbursements made for purposes of publicity in connection with labor relations advice or services, including expenses incurred in connection with labor relations advice or services except salaries, allowances, and disbursements to officers or employees, which are reported in Column (a). Include such expenses as heat, light, rent, telephone, and office supplies.

11. Fees for Professional Services: Enter the total fees paid for professional services provided by persons other than officers and employees of the reporting organization. Include fees for such services as auditing, economic research, legal services, and similar expenses. Report only services procured in connection with labor relations advice or services rendered to an employer.
12. Loans Made: Enter the total of all loans made by the reporting organization in connection with labor relations advice or services rendered an employer.

13. Other Disbursements: Enter the total of all other disbursements made by the reporting organization in connection with labor relations advice or services rendered an employer. Specify and show separately any items of disbursement on a separate sheet attached to the Form LM-21.

14. Total Disbursements: Enter the sum of items 8 through 13.

D. SCHEDULE OF DISBURSEMENTS

General: The schedule of disbursements to be completed only for those disbursements to persons other than officers and employees of the reporting organization, where an object of the disbursement, directly or indirectly, is one of the following:

1. To persuade employees to exercise or not to exercise, or persuade employees as to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing: or
2. To supply an employer with information concerning the activities of employees of a labor organization in connection with a labor dispute involving such employer, except information for use solely in connection with an administrative or judicial proceeding or a criminal or civil judicial proceeding.

Do not report on the schedule of disbursements which were in connection with labor relations advice or services rendered for which any book, records, reports, or statements required to be kept.

E. VERIFICATION AND SIGNATURE

This report is to be signed by the chairman or his designee, or corresponding principal officers, of the reporting organization. If the report is signed by anyone other than the chairman or his designee, or principal officers, cross out the inapplicable title and insert the correct title. This report is filed by an individual in his own behalf. It need only bear his signature. The city and state, and month, day, and year when and where the report is signed will also be entered.

F. PERSONAL RESPONSIBILITY

Under Section 209 (d) of the Act, each individual required to sign this report is personally responsible for the filing of the report and for any statement contained therein which he knows to be false.

G. WHEN TO FILE

Every person, including labor relations consultants and other individuals representing an organization subject to the Act who has made or received payments described in the form must make such report within 30 days after the close of his fiscal year. If, however, he was subject to the Act for only a portion of his fiscal year because he became subject to the Act during the fiscal year, he may consider that portion as the entire fiscal year in making this report.

H. WHERE TO FILE REPORTS AND COPIES

An original and a copy of the completed report, together with an original and copy of all attachments, must be filed with the Office of Labor-Management Standards, U.S. Department of Labor, Washington, D.C. 20210.

I. LEGIBILITY

The forms should be filed in a typewriter or printed in ink.

J. INSUFFICIENT SPACE

Where additional space is needed to answer any item of the form, include blank space for that item and include all such information in the space provided. When an item is checked, for accuracy and completeness, the phrase "checked" is entered at the bottom of the item to be included.

K. RETENTION OF RECORDS

The laws provide that every person required to file this report shall maintain records on the matters required to be kept and data on the extent to which information filed with the Secretary of Labor may be used, and shall include vouchers, worksheets, receipts, and applicable records, and shall retain such records for a period of at least five years after the filing of the documents based on the information they contain.

L. PENALTIES

The laws provide penalties for a willful failure to file a complete report and for making any false statement or representations of a material fact contained in this report or in the information required to be submitted to the Secretary of Labor or for knowingly failing to disclose a material fact in this report or in the information required to be submitted to the Secretary of Labor or for knowingly failing to disclose a material fact in this report or in the information required to be submitted to the Secretary of Labor. Penalties are also provided for willfully making any false entry in or concerning, withholding, or destroying any books, records, reports, or statements required to be kept.

M. OTHER REPORTS

Every person, including labor relations consultants and other individuals and organizations who enter into any agreement or arrangement with employers subject to the Act to underwrite activities of any kind described in the Act, Section 301, Title III of the Labor Management Reporting and Disclosure Act of 1959, as amended (LMRDA), is required to file in accordance with the labor management reporting and disclosure act of 1959, as amended, Form LM-20. Form LM-20 must be filed within 30 days after entering into any agreement or arrangement; copies of that form may be obtained from the Office of Labor-Management Standards, U.S. Department of Labor, Washington, D.C. 20210, or from any field office.

Selected Definitions and Related Provisions of the Labor-Management Reporting and Disclosure Act of 1959, as Amended (LMRDA)

Section 204. Nothing contained in this Act shall be construed to require an attorney who is representing a labor organization in the good standing of the bar of any State, to include in any report required to be filed pursuant to the provisions of this Act any information which was lawfully communicated to such attorney by any of his clients in the course of a legitimate attorney-client relationship.

Section 603. Sense of Congress. The sense of Congress is expressed by any views, argument, or opinion, or the discussion thereof, whether in written, printed, artistic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit.

APPENDIX F

TRANSMITTAL LETTER AND RESEARCH QUESTIONNAIRE
Dear Sir:

I am a Ph.D. candidate, enrolled in the Personnel And Industrial Relations (PAIR) program in the School of Business Administration, University of North Texas in Denton, Texas. I am conducting research for my dissertation which will examine certain characteristics of labor relations consultants who represent management clients in representation and decertification elections, often called union avoidance activities.

Through a review of the literature, including union publications, the "yellow pages," and material provided by the Office of Labor-Management Standards, U. S. Department of Labor, I've put together a list of the names and addresses of several hundred organizations and individuals that I believe can be presumed to be labor relations consultants. Further, I believe that my list represents a sample of sufficient validity that data from that sample will allow me to draw inferences about all labor relations consultants.

I ask that you complete the enclosed questionnaire and return it to me. Because I believe that the answers to at least some of my questions would be of interest to any labor relations consultant, I will provide any interested respondent with a summary of results. Wouldn't you like to know, for example, if you've overlooked some great publication in which to market your organization's activities? Should you wish a copy of the summary, send me your business card, not with your completed form, but in a separate envelope. In this separate envelope, I would also appreciate any comment or question that you might have regarding my research, along with any of your organization's promotional material that you might care to share.

A final comment, your answers to the questions in this questionnaire and any other information provided in response to it will be held in the strictest confidence. Your answers will be aggregated and used in conjunction with my dissertation work. In both the summary and my dissertation, no information will be used in a form that would allow any particular respondent or response to be identified.

Thank you for your help. I look forward to receiving your data.

Very truly yours,

Martin Asdorian Jr.
The information provided in response to the following questions will be treated with the utmost confidence. No information will be used in a form that would allow any particular respondent or response to be identified. Please respond for your current organization and, please, complete all questions. Further, do not hesitate to use any blank area for a longhand comment or observation on any aspect of this research or an expanded answer to any question.

A. The business form of your organization is best characterized as (check all that are appropriate):

1. a corporation
2. a partnership
3. an individual
4. a trade association
5. a law firm
6. other (please specify ______________________)

B. When did your organization begin doing business with its current name and business form? (Month)_______, 19____

C. Did your organization make a change in name, address, or business form in 1989, 1988, or 1987?

<table>
<thead>
<tr>
<th></th>
<th>1989</th>
<th>1988</th>
<th>1987</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name change</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Address change</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Business form change</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
</tr>
</tbody>
</table>

The reason for the change(s) was ________________________________

D. Which best describes your organization’s philosophy with respect to labor/management issues?

1. represent only management
2. represent only unions
3. represent both management and unions

E. If your organization represents both management and unions, what is the estimated percentage that each represents of your organization’s gross revenue in an average year, for all purposes?

1. management _____%  2. unions _____%  3. other _____%
F. Does your organization represent management in union avoidance campaigns? (Union avoidance is defined, in broad terms, as preventing a union from being designated as bargaining agent in a representation decertification dispute, and related activities, but not including, the collective bargaining process following certification, but prior to an agreement.)

Yes ______ No_________ Don't know__________

G. What percentage of your organization's gross revenue from management clients in an average year is associated with the general areas of labor relations and employee or former employee issues? _____%

H. With respect to the percentage estimated in G, immediately above, what portion of that business is currently attributable to each of the following activities (responses should = 100%)?

1. arbitration preparation and presentation________%  
2. investigation, preparation or presentation associated with grievances, workers' compensation, or OSHA issues________%  
3. collective bargaining________%  
4. union avoidance activities ________%  
5. other research________%  
6. employee surveillance________%  
7. other________% (please specify____________________)

I. In which industrial area(s) does your organization specialize (check all that are appropriate)?

1. public sector____  2. private sector____  
3. health care____  4. manufacturing____  
5. mining____  6. wholesale & retail trades____  
7. construction____  8. communications & utilities____  
9. finance, insurance & real estate____  
10. other industry(s)____ (please specify____________________)  
11. no area of specialization____

J. How many offices or locations does your organization currently have?____

K. In what state is your organization's primary office located?

_________________________

L. In total, how many employees, both part-time and full-time, does your organization have?____
M. What are the titles of your organization's top principals/executives, up to six, in descending order, with number one being the top person?

1. ____________________________ 2. ____________________________
3. ____________________________ 4. ____________________________
5. ____________________________ 6. ____________________________

N. What is the sex of each of your organization's principals/executives, up to six, in descending order, with number one being the top person?

1. Male/Female 2. Male/Female 3. Male/Female
4. Male/Female 5. Male/Female 6. Male/Female

O. What is the highest earned academic credential of each of your organization's top principals/executives, up to six, in descending order, with number one being the top person?

<table>
<thead>
<tr>
<th>Executive/Principal Number</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Not a high school graduate</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. High school graduate</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Associate degree</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Bachelor's degree</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. MBA</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Other Master's degree</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. Law degree</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. PhD</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9. Doctor of Medicine</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10. Other (please specify)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

P. List the publications in which your organization has paid to have its activities or name advertised since January 1, 1985.

1. "Yellow pages" or "phone directory" Yes__ No__
   If yes, under which heading(s)__________

2. ________________________________
3. ________________________________
4. ________________________________
5. ________________________________

Q. What percentage of your organization's gross revenue associated with union avoidance activity for management clients is estimated to be attributable to each of the following sources?

1. Repeat clients________%  
2. Referrals by clients, i.e., "word of mouth"________%  
3. Paid advertising________%  
4. Unpaid publicity, (e.g., mention in an article, etc.)________%  
5. Direct contact with company known to be the subject of an union organizing campaign________%  
6. Other________% (please specify________________________)

164
R. What is the basis of your organization's billing to management for a union avoidance campaign?

1. fixed fee for campaign, plus expenses
2. fixed fee for campaign, including expenses
3. per diem or hourly fee, plus expenses
4. variable fee based on outcome, plus expenses
5. retainer plus expenses
6. other (please specify)

S. Over the years, in how many union avoidance campaigns would you estimate that you or your organization (in its current or predecessor forms) has been involved on behalf of a management client?

1. 0  2. 1 to 50  3. 50 to 100  4. 100 to 500  5. 500 to 1000  6. more than 1000

T. In what percentage of the campaigns estimated in S, immediately above, has your management client been successful in keeping the union out?

____ %

U. Has your organization reached an agreement or arrangement with a management client where an object thereof, directly or indirectly, was to persuade employees to exercise or not to exercise, or as to the manner of exercising, the right to organize and bargain through representatives of their own choosing?

Yes  No  Don't know

V. Has your organization ever filed an "Agreement and Activities Report" (LM-20) or a "Receipts and Disbursements Report" (LM-21) with the Office of Labor-Management Standards, U.S. Department of Labor?

Yes  No  Don't know

W. Has your organization ever been named in an "Employer Report" (LM-10) filed with the Office of Labor-Management Standards, U.S. Department of Labor?

Yes  No  Don't know

Please recheck the form to assure that you've answered all questions. Again, your responses will be held in the strictest confidence and the results aggregated. Should you wish to receive a summary of the answers of all respondents to this questionnaire, please return a business card in a separate envelope, along with any of your organization's promotional material that you care to share. Please send your completed questionnaire to:

Martin Asdorian Jr.
3704 Sweetbriar Lane,
Bedford, Texas 76021
R. What is the basis of your organization's billing to management for a union avoidance campaign?

1. fixed fee for campaign, plus expenses
2. fixed fee for campaign, including expenses
3. per diem or hourly fee, plus expenses
4. variable fee based on outcome, plus expenses
5. retainer plus expenses
6. other (please specify)

S. Over the years, in how many union avoidance campaigns would you estimate that you or your organization (in its current or predecessor forms) has been involved on behalf of a management client?

1. 0
2. 1 to 50
3. 50 to 100
4. 100 to 500
5. 500 to 1000
6. more than 1000

T. In what percentage of the campaigns estimated in S, immediately above, has your management client been successful in keeping the union out?

______%

U. Has your organization reached an agreement or arrangement with a management client where an object thereof, directly or indirectly, was to persuade employees to exercise or not to exercise, or as to the manner of exercising, the right to organize and bargain through representatives of their own choosing?

Yes ______ No ______ Don't know ______

V. Has your organization ever filed an "Agreement and Activities Report" (LM-20) or a "Receipts and Disbursements Report" (LM-21) with the Office of Labor-Management Standards, U.S. Department of Labor?

Yes ______ No ______ Don't know ______

W. Has your organization ever been named in an "Employer Report" (LM-10) filed with the Office of Labor-Management Standards, U.S. Department of Labor?

Yes ______ No ______ Don't know ______

Please recheck the form to assure that you've answered all questions. Again, your responses will be held in the strictest confidence and the results aggregated. Should you wish to receive a summary of the answers of all respondents to this questionnaire, please return a business card in a separate envelope, along with any of your organization's promotional material that you care to share. Please send your completed questionnaire to:

MARTIN ASDORIAN JR.
3704 SWETERIAN LANE,
BEDFORD, TEXAS 76021
BIBLIOGRAPHY

Books and Articles


American Bar Association. Section of Labor and Employment Law, Officers, Council, Committees and Members. Labor and Employment Law Directory.


________. "What to Do When Employers Discriminate Against Unions (Part 2)." *The Practical Lawyer* 33 (April 1987): 75-86.


Philadelphi a: Industrial Research Unit, University of Pennsylvania, 1984.


Engel, Paul G. "Name Game: Union-busting or Good Business?" Industry Week, 18 April 1983: 19, 20.


Lawrence, Anne, and John Williams. Union Busters and the Law: Consultant and Employer Non-Compliance with Reporting Requirements of the Landrum-Griffin Act in California. Center for Labor Research and Education, Institute of Industrial Relations, University of California, Berkeley (Spring 1983).


"A Typology of Employer Counter-Organizing Tactics." In Proceedings of the 1986 Spring Meeting held in Atlanta, Georgia 17-18.


Schnitzler, Thomas P. "Legal Aspects of Union Organizational Campaigns." Corporate Law and Practice; Course Handbook Series; Number 190. New York: Practicing Law Institute, 1975.


U.S. Government Publications


Unpublished Correspondence


Bowen, Michael, Staff Representative, Department of Organization and Field Services, AFL-CIO, to Martin Asdorian, Jr., 13 March 1984.


DeMaria, Alfred T., undated, handwritten marginal note on Martin Asdorian, Jr., letter of 8 July 1988 to DeMaria.


Court Cases


Douglas v. Wirtz, 353 F.2d 315 (5th Cir. 1965), 60 L.R.R.M. 2264.

Donovan v. Rose Law Firm, 768 F.2d 964 (8th Cir.1985), 119 L.R.R.M. 3345.

