

ORIGINAL

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6 Attorneys for Amicus Curiae
7 California Apprenticeship
8 Coordinators Association

8 IN PROCEEDINGS BEFORE THE
9 DEPARTMENT OF LABOR

10 *In the Matter of:*

11	DEPARTMENT OF LABOR, OFFICE OF) No. 2002-CCP-1
12	APPRENTICESHIP TRAINING, EMPLOYER)
13	AND LABOR SERVICES) DECLARATION OF MICHAEL
14	Prosecuting Party,) LONGEUAY IN SUPPORT OF
15	v.) REQUEST FOR LEAVE TO
16	CALIFORNIA DEPARTMENT OF) PARTICIPATE [29 CFR §§ 18.10 and
17	INDUSTRIAL RELATIONS) 18.12]
18	Respondent.) Administrative
19) Law Judge: The Hon. John Vittone
20	<u>CALIFORNIA APPRENTICESHIP</u>)
21	<u>COORDINATORS ASSOCIATION,</u>)
22	<u>Amicus Curiae or Intervenor</u>)

20 I, Michael Longeuay, hereby declare:

21 1. That I am the President of the California Apprenticeship Coordinators Association

22 (“CACA”) and Administrator of the of Sheet Metal Workers Local 104 and Bay Area Industry

23 Training Fund (“Training Fund”).

24 2. CACA is a state-wide nonprofit public benefit corporation consisting of

25 apprenticeship coordinators and directors from building trades joint apprenticeship committees in

26 California. These programs currently train in excess of 40,000 registered apprentices under

1 apprenticeship agreements on file with the Division of Apprenticeship Standards (“DAS”)
2 throughout the State of California and have a direct interest in the California Director of Industrial
3 Relations’ (“DIR”) ability to certify apprenticeship programs approved by the California
4 Apprenticeship Council.

5 3. On behalf of CACA and in my capacity as Administrator of the Training Fund, I
6 have not been kept informed of the proceedings in this prosecution of CDIR by the federal
7 government. The Prosecuting Party, Department of Labor’s Office of Apprenticeship Training,
8 Employer and Labor Services (“OATELS”) sent letters to existing apprenticeship programs dated
9 May 13, 2002 and May 15, 2002 informing affected parties that OATELS initiated derecognition
10 proceedings against CDIR. I received one copy of that letter date stamped May 13, 2002 in my
11 capacity as Administrator (See Exhibit A). I received another copy of the letter dated May 15,
12 2002 in my capacity as President of CACA. (See Exhibit B). Both letters are identical in content
13 and in both letters, Administrator Anthony Swoop, assured affected parties that they would be
14 notified of the opportunity to participate if CDIR requested a hearing. I replied separately to these
15 letters, indicating my interest in participating and asking to be kept informed. (See Exhibits C and
16 D). To date, I have received no notices or correspondence from OATELS in reply to my letters or
17 in line with the assurance contained in the correspondence from Anthony Swoop. Also at the
18 recent meeting of CACA on July 25, 2002, all members present indicated that they also had not
19 been informed that the prosecution of CDIR had commenced.

20 4. At our meeting on July 25, 2002, CACA voted to seek to participate as an amicus
21 curiae upon the understanding that CACA will receive all documents, notices and correspondence
22 related to this action. If CACA is not able to stay informed of the pre-hearing proceedings in this
23 manner, then the CACA will seek to intervene in this action.

24 5. CACA is dedicated to ensuring recruitment and outreach to all communities in
25 California, especially to women and people from diverse communities and cultures, to providing
26 quality training of apprentices, to promoting safe and successful completion of the apprenticeship

1 programs, and to developing a steady supply of employment opportunities for apprentices. To
2 these ends, CACA has been an active participant in the efforts of the California Apprenticeship
3 Council (CAC) to be inclusive while maintaining the high standards that are necessary to provide
4 safe and successful apprenticeship programs. Over the course of several years, CACA has
5 participated in the "Blue Ribbon Committee", a Committee made up of representatives of Labor,
6 Management, Unilateral Programs, Joint Programs and the Public. The purpose of this Committee
7 has been to reconcile differences between members of the apprenticeship community and/or to
8 improve and change our apprenticeship system in California. One of the subcommittees of the
9 "Blue Ribbon Committee" specifically addressed the "needs" standard and adopted
10 recommendations concerning the needs standard to be proposed to the California Apprenticeship
11 Council. These standards were adopted by the California Apprenticeship Council and later
12 withdrawn at the request of OATELS. Not all parties agreed on the resolution, but a majority of
13 the participants reached consensus. This process has been both constructive and inclusive and has
14 resulted in changes to the administration of apprenticeship in California. The current prosecution
15 by OATELS appears to me to address the same issues already raised and resolved to the
16 satisfaction of the majority members of the California apprenticeship community in this several
17 year long process. This prosecution will distract all of us from our work and divert our resources
18 to this proceeding. In the end, this will not promote apprenticeship nor serve the community of
19 Californians that CACA is dedicated to serving.

20 6. The members of CACA have a substantial interest in seeing to it that the apprentices
21 indentured into their programs are also certified by CDIR for federal purposes. CACA believe that
22 if the DOL/OATELS is successful in its prosecution of CDIR and CDIR loses its authority to
23 register apprentices for federal purposes, the real victims will be the men and women of California
24 who are part of the existing apprenticeship community. Derecognition will create confusion and
25 impede CACA's members' ability to represent the rights of the participants in their apprenticeship
26 programs. California apprentices, in the building and construction trades, may lose employment

1 opportunities currently available to them on federal public works projects in California. For
2 example, a multi-billion dollar federal construction project involving the Lawrence Livermore
3 Laboratory is in its initial stages. Over a ten year period, I expect this project to generate hundreds
4 of employment opportunities for apprentices. If after the initial bidding, California loses the
5 authority to register apprenticeship programs for federal purposes, contractors employing
6 apprentices on the project would not legally be allowed to pay the apprenticeship wage rate on that
7 project. Contractors who bid this project using apprenticeship rates could be faced with the
8 possibility of cost overruns. If a contractor is required to pay the journeyman wage rate to
9 apprentices, the contractor will have no incentive to hire and train apprentices on this federal public
10 works. Job opportunities will be lost to apprentices.

11 7. To the best of my knowledge, OATELS staff in California consists of one clerical
12 employee. There is no state director for OATELS in California and there are no field staff. If the
13 Department of Labor is seriously considering undertaking the responsibilities currently carried out
14 by CDIR, it would need to staff an office with equivalent staffing to that of the Division of
15 Apprenticeship Standards (“DAS”). Otherwise, existing programs will not get a timely review and
16 approval of their standards by the federal government and apprentices will lose job opportunities
17 while they wait for approval.

18 8. California apprenticeship programs will experience burdensome and duplicative
19 paperwork requirements as they will be required to apply to both the federal and state
20 apprenticeship agencies for review and approval of their standards. They will be required to carry
21 twice the current load of administrative work and will thereby have less time to devote to outreach
22 to the community to recruit apprentices, to development of high quality curriculum for apprentices,
23 to recruitment of skilled instructors, to promoting health and safety and to cultivating job
24 opportunities for apprentices.

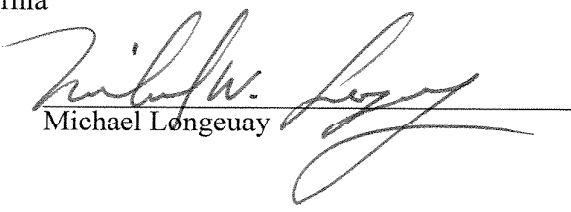
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CACA therefore seeks the right to participate as an amicus curiae and to receive copies of all documents generated in this prosecution of CDIR.

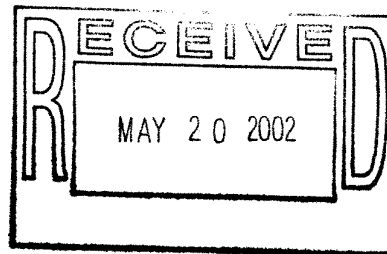
I declare under penalty of perjury that the foregoing is true and correct. Executed this ____ day of _____, 2002 at San Leandro, California


Michael Longeuay

9018/275502



MAY 13 2002



ALAMEDA & CONTRA COSTA COS. SHEETMETAL JAC
1700 MARINA BLVD
SAN LEANDRO, CA 94577

Dear Apprenticeship Sponsor:

I am writing to advise you that the U.S. Department of Labor's Office of Apprenticeship Training, Employer and Labor Services (OATELS) has initiated derecognition proceedings, under 29 CFR §29.13, against the California Department of Industrial Relations (CDIR). The CDIR currently has authority to register apprenticeship programs, for Federal purposes, in California. Derecognition would remove that authority. A copy of the notification to the CDIR is enclosed.

I want to assure you that the recognition of your apprenticeship program and apprentices for Federal purposes will not be affected during the derecognition process. CDIR has thirty (30) days to come into compliance with Part 29 or to request a hearing. If the CDIR requests a hearing, you will be notified of the opportunity to participate, as provided in §§29.9 and 29.13.

OATELS has determined that it is appropriate to initiate derecognition proceedings because the CDIR has failed to fulfill or operate in conformity with the requirements of Part 29. In particular, the State's statutory and regulatory law regarding apprenticeship have limited rather than promoted apprenticeship opportunities, contrary to Part 29. OATELS remains ready to work with the CDIR to resolve this situation and has provided the CDIR with sample legislative and regulatory text that would address OATELS' concerns.

If you have any questions regarding this action, please call the Employment and Training Administration's Toll-Free Help Line at 1-877-US2-JOBS (TTY: 1-877-889-5627). Thank you for your continued commitment to the National Apprenticeship System.

Sincerely,

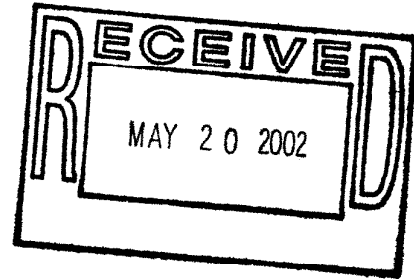
ANTHONY SWOOPE
Administrator
Office of Apprenticeship Training, Employer and Labor Services

Enclosure



A Proud Member of America's Workforce Network

EXHIBIT A



15-May-02

Apprenticeship Sponsor
Sheet Metal Workers JATC
1700 Marina Blvd.
San Leandro, CA 94577

Dear Apprenticeship Sponsor:

I am writing to advise you that the U.S. Department of Labor's Office of Apprenticeship Training, Employer and Labor Services (OATELS) has initiated derecognition proceedings, under 29 CFR §29.13, against the California Department of Industrial Relations (CDIR). The CDIR currently has authority to register apprenticeship programs, for Federal purposes, in California. Derecognition would remove that authority. A copy of the notification to the CDIR is enclosed.

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If you have any questions regarding this action, please call the Employment and Training Administration's Toll-Free Help Line at 1-877-US2-JOBS (TTY: 1-877-889-5627). Thank you for your continued commitment to the National Apprenticeship System.

Sincerely,

ANTHONY SWOOPE
Administrator
Office of Apprenticeship Training, Employer and Labor Services

Enclosure



A Proud Member of America's Workforce Network

EXHIBIT B

Sheet Metal Workers' Local 104 and Bay Area Industry Training Fund

1700 Marina Blvd.

San Leandro, CA 94577-4203

Phone (510) 483-9035 Fax (510) 483-1415

Mikel@smw104.org



May 29, 2002

Anthony Swoope, Administrator
OATELS
Employment and Training Administration
200 Constitution Ave, N.W.
Washington, D.C. 20210

Dear Mr. Swoope:

We have received your notice dated May 13, 2002 informing our Committee of your initiating derecognition proceedings against the California Department of Industrial Relations.

We would like to go on record in support of the CDIR and the "need" requirement.

The Division of Apprenticeship Standards (DAS), under the guidance of the California Apprenticeship Council (CAC), has held the highest Standards for apprenticeship in California. Over the course of several years, the "Blue Ribbon Committee" representing Labor, Management, Unilateral Programs and the Public have struggled to recommend improvements and changes to our Apprenticeship System. Not all parties agreed on all issues, but a majority reached consensus.

The "several employer groups" (2) you mention in your letter (PHCC, WECA), were found to be in violation in other areas of the apprenticeship Regulations. In my industry we have a Program (ACTA) that continues to violate their own Standards. Despite several Complaints and documented violations, they continue to operate.

We look forward to the opportunity to testify during the appeal process in support of the CDIR. Please keep our office informed of scheduled meeting dates.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael W. Longeuay".

Michael W. Longeuay
Administrator

C: Gray Davis, Governor
Stephen J. Smith, Director-Department of Industrial Relations
John Burton, President Pro Tem of the State Senate
Richard Polanco, Majority Leader of the State Senate
James L. Brulte, Senate Republican Leader
Herb Wesson, Speaker of the Assembly
Fred Keeley, Speaker Pro Tempore
Kevin Shelley, Majority Leader of the Assembly
Dave Cox, Assembly Republican Leader
Bruce Word, Business Manager SMWIA 104
Tony Asher, General Counsel SMACNA

EXHIBIT C

California Apprenticeship Coordinators Association

1700 Marina Blvd.
San Leandro, CA 94577
Phone 510-483-9035 fax 510-483-1415
Mikel@smw104.org



Michael W. Longeuay, President
Byron Cummins, Vice President
Dan Whooley, Secretary
Richard Cole, Treasurer

June 4, 2002

Anthony Swoope, Administrator
OATELS
Employment and Training Administration
200 Constitution Ave, N.W.
Washington, D.C. 20210

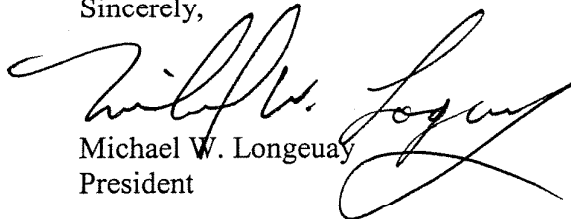
Dear Mr. Swoope:

We have received your notice dated May 13, 2002 informing our Committee of your initiating derecognition proceedings against the California Department of Industrial Relations.

We would like to go on record in support of the CDIR and the "need" requirement.

Our Coordinators Association represents over 250 JATC's that indenture 91% of all construction apprentices (57,000) in California and we strongly support the California Department of Industrial Relations, Division of Apprenticeship Standards. We would like to be kept informed of the Appeal process and any Public Hearing dates.

Sincerely,



Michael W. Longeuay
President

C: Gray Davis, Governor
Stephen J. Smith, Director-Department of Industrial Relations
John Burton, President Pro Tem of the State Senate
Richard Polanco, Majority Leader of the State Senate
James L. Brulte, Senate Republican Leader
Herb Wesson, Speaker of the Assembly
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EXHIBIT D