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STATE OF CALIFORNIA
BEFORE THE CALIFORNIA APPRENTICESHIP COUNCIL

In The Matter of The Approval of the Application)
 For Statewide Expansion of the:)

Western Electrical Contractors Association, Inc.)
 Apprenticeship Program for the Occupation of)
 Electrician, Construction, DOT 824.261.010)

DAS File No: 19602
 District No: 04

In The Matter of the Approval of the Applica-)
 tion of the:)

Western Electrical Contractors Association, Inc.)
 Unilateral Apprenticeship Committee for)
 Approval of Apprenticeship Standards in the)
 Occupation of Sound and Communication)
 Installer, DOT 829.281.022.)

DAS File No: 05047
 District No: 04

APPEAL FROM DECISION OF THE CHIEF OF DAS
GRANTING APPROVAL OF APPRENTICESHIP
PROGRAM AND GRANTING APPROVAL OF
STATEWIDE EXPANSION OF
APPRENTICESHIP PROGRAM

TO: THE CALIFORNIA APPRENTICESHIP COUNCIL:

This Appeal is filed on behalf of the California State-Wide Electrical Joint Apprenticeship & Training Committee on behalf of itself and on behalf of its affiliated State-Approved Apprenticeship Programs. The Apprenticeship Programs affiliated with the California State-Wide Electrical Joint Apprenticeship & Training Committee are all Joint Apprenticeship Programs approved by the State of California training apprentices in the electrical occupations and are "existing programs" within the meaning of 8 C.C.R. Sec. 212.2 serving the same geographical areas in the same apprenticeable occupations as the Programs which received the approvals at issue herein. Appellants appeal from the Findings of Fact and Decisions issued by Henry Nunn, then Chief of the Division of Apprenticeship Standards ("DAS") on January 16, 2004 approving the applications of the Western Electrical Contractors Association, Inc. Unilateral Apprenticeship Committee ("WECA UA") for Approval of Apprenticeship Standards in the Occupation of Sound and Communication Installer, DOT 829.281 022. and for statewide expansion of its apprenticeship program for the Occupation of Electrician, Construction, DOT 824.261.010.

Appellants submit that the Findings of Fact and Decisions are contrary to law and not supported by the facts or evidence and should therefore be reversed. To the extent the Chief's Decision(s) rely upon the same facts, or suffer from the same defects, they will be treated together. To the extent there are facts that apply to only one application, those will be pointed out in this appeal.

I. THE NOTICE AND COMMENT REQUEST CONCERNING THE WECA UA APPLICATION FOR APPROVAL OF THE SOUND AND COMMUNICATION INSTALLER PROGRAM WAS DEFECTIVE AND DEPRIVED A NUMBER OF PROGRAMS OF THE OPPORTUNITY TO COMMENT AS REQUIRED BY THE LAW.

California Code of Regulations Title 8, § 212.2(f) provides:

"Upon receipt of the proposed standards of a program, the Chief shall serve a copy of the proposed standards and any supplement thereto on the sponsor of each existing program in the apprenticeable occupation in the labor market area of the program, as defined by Section 215. Each such existing program may submit comments on the proposed program within thirty days after receipt of the completed standards. The Chief may, in his or her discretion, consult with such existing program concerning the proposed program."

In the case of the WECA UA's application for approval of an apprenticeship program for the occupation of Sound and Communications Installer, the DAS sent a defective notice to the existing electrical programs purportedly in compliance with Section 212.2(f). That defective notice announced the application for approval of the expansion of the "Inland Empire Tile Setters JAC for the occupation of Tile Setters." Because it did not announce an application dealing with the electrical occupation, most of the existing electrical programs ignored and/or threw away the notice and did not comment upon the application, thinking (reasonably) that the application had nothing to do with their apprenticeship programs.¹

As the CAC knows, the notice and comment requirements of Section 212.2 are mandatory. *Independent Roofing Contractors of California v. California Apprenticeship*

¹ While the WECA Sound and Communication Standards referred to this as a "new occupation," in fact the Appellant Programs have been approved to train, and have been training and graduating apprentices in this occupation for a number of years.

Council (2004) Court of Appeal (3rd Dist.), Decision Ordered Published 1/21/04. Since the notice was defective, many of the Appellants were denied the right to comment upon the proposed program and, thus, the CAC should find that the approval was defective for failure to comply with the requirements of Section 212.2.

II. THE APPROVALS WERE GRANTED IN VIOLATION OF LABOR CODE SECTION 3075 IN THAT THE WECA PROGRAMS DID NOT SHOW THERE WAS A NEED FOR THE PROGRAMS WITHIN THE MEANING OF THE STATUTE.

The Legislature has mandated in Labor Code Section 3075 that a new apprenticeship program (which includes expansions of existing programs) shall be approved "only if any of the following conditions are met:" (emphasis added)

1. There is no existing apprenticeship program approved under this chapter serving the same craft or trade and geographic area;
2. Existing apprenticeship programs approved under this chapter that serve the same craft or trade and geographic area do not have the capacity, or neglect or refuse, to dispatch sufficient apprentices to qualified employers at a public works site who are willing to abide by the applicable apprenticeship standards;
3. Existing apprenticeship programs approved under this chapter that serve the same trade and geographic area have been identified by the California Apprenticeship Council as deficient in meeting their obligations under this chapter."

With respect to these approvals, absolutely *none* of the enumerated conditions exist, nor was there any evidence submitted to support the notion that the WECA programs satisfy the need requirements of Labor Code Section 3075.

First, there is no dispute that there are numerous existing programs (both joint and unilateral, i.e., ABC, AGC,) serving the same craft or trade and geographic areas covered by the WECA submissions. Thus, this factor cannot be used as a basis for granting the requested approvals.

Second, there is absolutely no evidence in the record before the DAS or the CAC that even one of the Appellant programs neglected or refused to dispatch sufficient apprentices to qualified employers at a public works site who are willing to abide by the applicable apprenticeship standards. Indeed, not one qualified employer was even identified as having requested the dispatch of electrical apprentices or sound and communication apprentices and that that request was denied. In fact, most, if not all, of the Appellant programs will dispatch to non-union employers who are willing to comply with their standards if they request such dispatch. Thus, this factor cannot be used as a basis for granting the requested approvals.

Third, none of the Appellant programs have ever been identified by the California Apprenticeship Council as deficient in meeting their obligations under this chapter. Thus, this factor cannot be used as a basis for granting the requested approvals.

Rather, the Chief of DAS justified finding there was a need for these programs on an EDD study that over the first decade of the Twenty-First Century there will be a need for an additional 18,000 electricians. However, there is nothing in the Findings and Decisions to explain what factors the EDD allegedly used to support this finding. Moreover, the study was conducted prior to the current national and state financial crises that has resulted in the demise of virtually all state funding for public works. (See, e.g., the Governor's confiscation of all transportation funds ear-marked for construction.) The

media is now replete with examples of both public and private construction projects either put on hold or completely cancelled. As a result, there are now hundreds of electrical apprentices unemployed in the State of California. For instance, the Alameda County Joint Electrical Program alone now has 40 unemployed apprentices and that number can be multiplied by the number of programs throughout the State.

Finally, Chief Nunn "found," without citing any evidence whatsoever, that the existing Electrical programs do not have the capacity to train the new electrical apprentices that will be needed. In fact, DAS did not conduct any type of survey of the existing programs to determine whether this "finding" was warranted or supported in any fashion. In fact, all of the existing joint programs have the capacity to train more apprentices.² For instance, the Alameda Electrical Program currently has 207 apprentices in the inside wireman program. By expanding its day school instruction, that program has the ability to train 400 apprentices in the occupation of Electrician. Likewise, the Orange County Electrical Program currently has 290 apprentices, but has the capacity to expand to train 578 apprentices without any added construction. Similar figures can be gathered for the other existing programs. The implementation of day school training in the existing Electrical Programs has increased classroom availability and capacity throughout the State. Unfortunately, none of these facts were taken into consideration by the Chief since DAS never sought any information concerning the capacity of the existing programs to train more apprentices. Thus, this factor cannot be used as a basis for granting the requested approvals.

² Just as Chief Nunn did not survey the existing joint programs, there is nothing in the Chief's Decision to indicate that he surveyed the unilateral electrical programs already in existence (i.e., ABC or AGC) to determine their capacity to train more apprentices.

The CAC has the obligation to ensure that apprentices are provided with the opportunity for "reasonably continuous employment." (8 C.C.R. Section 212 (14)) This is because unemployed apprentices are forced by the economic realities of life requiring them to support themselves and their families to drop out of their apprenticeship programs. Approval of new apprenticeship programs serving the same geographical areas and occupations will simply exacerbate this current unemployment and under-employment problem and severely limit the ability of the existing apprentices to gain and remain employed and advance through their apprenticeship. An ever increasing "over-capacity" of apprentices in relation to the needs of the industry actually results in less qualified journeymen rather than more, an anomaly that defeats the very purpose that Chief Nunn cited in granting the approvals.

Assuming that the proposed expansion does create fewer employment opportunities for an apprentice in a given program, one would expect that said apprentice would at some time consider transferring to another program, or geographical area, where prospects for continued employment are better. However, due to the lack of continuity between programs, the chances are slim that an apprentice would be able to make the transfer with little or no direct adverse effect. Rather, it is more likely that the apprentice would be required to repeat a portion of the training - most likely some portion of the related and supplemental instruction. The consequence of such a transfer would most likely delay advancement for the apprentice, at a minimum. Another possibility is that an apprentice might seek employment outside of his/her respective industry and outside of the apprenticeship program. In either case, the unnecessary expansion of

apprenticeship has an adverse effect on individual apprentices and, therefore, the system as a whole.

In sum, there is absolutely no evidence to support the finding that there is a need for the new programs. Thus, the mandatory requirements set forth by the Legislature in Labor Code Section 3075 were not met.

The undersigned realizes that the needs requirement is the subject of Federal threats at the current time, and may have political implications. However, we're certain that the CAC needs no reminder that the needs requirement is in statute, having been duly enacted by our State Legislature. That being the case, until the statute is amended or repealed, the CAC has the obligation to enforce the law as written. The CAC members, having been appointed to enforce the laws of this State and having sworn to do so, do not have the right or luxury of ignoring, or in a *de facto* manner nullifying, a law that our Legislature has seen fit to enact.

III. THE CHIEF'S DECISION THAT WECA'S GRADUATION RATES ARE "APPROPRIATE WHEN COMPARED TO OTHER PROGRAMS TAKING INTO CONSIDERATION ALL SURROUNDING FACTS AND CIRCUMSTANCES" IS VAGUE AND UNINTELLIGIBLE AND CONTRARY TO THE RECORD FACTS.

The Chief's Decision makes a cursory finding that WECA's graduation rates are "appropriate when compared to other programs taking into consideration all surrounding facts and circumstances." The Chief, however, does not state what those "surrounding facts and circumstances" are. Indeed, this finding is so vague and unintelligible no one could explain the basis for this finding. It is respectfully submitted that the CAC, in reviewing the Chief's decision, is simply left in the dark as to what "facts" are in the record to support this finding.

There is no requirement for any particular graduation rate. My own memory is that the CAC is reviewing it.

Moreover, this finding is contrary to the record facts before the CAC. As the CAC is aware, the WECA program has been operating as an approved program for some 12 years in California in its originally approved areas of operation and, since 1998 it has been operating (albeit illegally) throughout the State of California.³ Even though the 1998 approval was set aside by the CAC as having been improperly granted, the CAC did not remove the apprentices participating in the illegal areas of operation and, thus, it is appropriate to look at their state-wide statistics of graduation.

The Minutes of the California Apprenticeship Council's Quarterly Meeting for July, 2002 paints a very different picture of the quality of WECA UA's graduation rates than that portrayed in the Chief's Decision. The Minutes reflect that at that Quarterly Meeting, George Moton gave the report on behalf of the California Association for the Advancement of Apprenticeship Training (CAAAT), the Association to which the WECA UA Program belongs. Mr. Moton, in addition to being President of CAAAT, is also an official of the WECA UA Program. In that report, Mr. Moton reported that since 1995, the WECA UA Program graduated a total of 148 apprentices. That statistic equates to an average of only 21 graduates per year for a program that legally operated in 11 counties and illegally operated state-wide in the entire 58 counties. Just looking at the 11 counties where the program legally operated, this figure amounts to *less than one* apprentice graduating annually from each county.⁴

³ In 1992, the WECA UA Program was approved to operate in Amador, Colusa, Sacramento, Sutter, Yolo, Yuba, and that portion of Alpine, El Dorado, Nevada, Placer and Sierra Counties which is West of the Main Watershed through these counties

⁴ Not only do these figures demonstrate that this Program does not graduate anywhere near the percentage of apprentices it should but, in addition, it demonstrates that approving these new programs will not result in more skilled electricians, the basis for Chief Nunn's finding of "need." Certainly, allowing the existing programs to use their already expanded capacity to meet any additional needs would better serve the

The State's own records demonstrate that there is absolutely no support for the Chief's finding that "WECA had a number of graduates that are appropriate for a program of its size and nature." Since the CAC must review the Chief's Findings and Decisions to make certain there is substantial evidence in the record to support those Findings, it is respectfully submitted that the CAC should reverse the Chief's Decision as unsupported by the facts and evidence or at least demand clarification of what "surrounding facts and circumstances" the Chief allegedly relied upon in support of this finding.

IV. THE WECA STANDARDS VIOLATE 8 C.C.R. SECTION 208 AND THE ANNUALIZATION FORMULA FOR TRAINING CONTRIBUTIONS.

No subject has plagued the CAC longer than the minimum wages paid to apprentices in the construction industry along with the abysmal practice of non-union apprenticeship programs obtaining excess contributions, deducted from apprentices' paychecks, for training contributions. The Federal government has prohibited such excess contributions for a number of years and, although the State CAC has condemned the practice, it was only within the last five years that the State Legislature prohibited the practice.

In order to put an end to this practice, the CAC's Regulations dealing with minimum wages to apprentices now provide that where an employer elects to satisfy a portion of the hourly wage package by employer payment for employee benefits as defined in 8 C.C.R. Section 16000, "the payment of such contributions must be verifiable and the cost of the benefit(s) must be reasonably related to the amount of the contribution(s)."

objective of obtaining more skilled electricians since, unlike the WECA program, those programs have a demonstrated ability to graduate hundreds of apprentices annually.

The WECA program withholds \$2.25 per hour from the apprentices' paychecks for training contributions as outlined on the Wage Spread Sheets submitted to DAS, regardless of the geographical area within the State where the apprentice is working and/or training. This amount and formula is clearly not "reasonably related" to the cost of the benefits, is discriminatory and amounts to excess contributions to the training program.

The discriminatory nature of the withholding can be seen from a comparison of the impact upon an apprentice working in San Francisco as opposed to an apprentice working in Kern County. A 40 percent WECA apprentice in San Francisco receives \$15.44 per hour and contributes \$2.25 per hour for training while a 40 percent WECA apprentice in Kern County receives only \$8.44 per hour, and yet must still contribute the same \$2.25 per hour for training.

That this amount is excessive can be gleaned from a mathematical analysis. Based on WECA's alleged 8,000 hour standard, this deduction per apprentice who actually completes the program equates to \$18,000 from the apprentice him/herself. When one adds on reimbursement calculations from Montoya funds or other funds, the cost of the training is already in excess of \$20,000 per apprentice. Finally, when one considers that WECA has averaged graduating less than one apprentice per county annually, the training contributions deducted from the paycheck of all of the non-graduating apprentices simply becomes a fund generating vehicle for the Apprenticeship Program.

While this issue was raised in the pre-approval comments submitted by the San Francisco Electrical Joint Apprenticeship Program, the issue was never addressed by the Chief's Decision. As such, the Decision should be reversed.

V. **THE WECA STANDARDS DO NOT COMPLY WITH THE UNIFORM MINIMUM TRAINING CRITERIA FOR THE CONSTRUCTION INDUSTRY'S OCCUPATION OF ELECTRICIAN.**

The CAC mandated in 8 C.C.R. Section 212.01 that the Council shall adopt uniform training criteria for apprenticeship programs for trade/craft training. Once adopted, "all apprenticeship programs existing, whether approved or unapproved, at the time of the adoption of the appropriate minimum industry trade/craft training criteria, shall conform to such minimum criteria in their operations within one (1) year of the date of the adoption of such criteria by the California Apprenticeship Council." (8 C.C.R. Section 212.01(4)(d) (emphasis added)).

Along with the Sheet Metal Industry, the Electrical Industry Apprenticeship Programs, were the first to have their Uniform Training Criteria established and unanimously adopted by the CAC. The Committee that established the Uniform Minimum Training Criteria for the Electrical Industry was made up of representatives from all aspects of the Electrical Industry, including members from the WECA Training Committee. However, despite having agreed to the Minimum Standards, and despite being required by law to conform to those Uniform Minimum Standards, the WECA Standards approved by the Chief of DAS do not conform to those Uniform Standards.

The Uniform Standards require that the length of training for an Electrical Apprentice shall be a minimum of 8000 hours of on-the-job training and 800 hours of

related and supplemental instruction. Article XI of the WECA/ATC Training Program states that the training shall be 144 hours per year. Based on the five year curriculum, this equates to 720 hours, which is below the adopted minimum standards. Moreover, while the WECA's first and fourth year curriculum may have enough "make-weight" to cover 144 hours of training, but in order to meet the 160 hours of classroom training needed to comply with the Uniform Minimums, the curriculum must be amended.

In addition, the Uniform Minimum Standards contain 19 Work Processes that must be taught to achieve the 8000 hours of on-the-job training. The WECA expansion proposal lists only three board topics, defined by the foundation line of a building. Those processes are building, site and specialty systems. However, the Standards omit many tasks that are contained in the minimum work processes contained in the Uniform Minimum Standards.

There also appear to be serious problems with the lessons description contained on Attachment A to the WECA Standards. Of the 36 lessons for each of the first three years, five are for lesson review or test evaluation, leaving 32 lessons for actual learning processes. According to their curriculum, a third year apprentice would have accumulated only 432 hours of classroom training as opposed to the 540 hours of classroom training a third year apprentice in a joint program would have accumulated (in addition to 10 hours of OSHA training a third year apprentice would have received in a joint program).

A summary of some of the defects of the WECA curriculum show that:

1. There is no RELQ (review, evaluation (other than written), lab work, and/or questions) after the first year;

2. There are no lab lessons in the second year;
3. The fourth year has only 25 learning lessons after averaging 30 over the first three years;
4. There are no final exam or review lessons for the final in the fourth year;
5. The first lesson in the third year is for registration and orientation (which is clearly out of place for the third year) when there is no registration or orientation lesson in any of the other years.

Similarly, for the Sound and Communication curriculum, the first four semesters are laid out in lesson format while the last two semesters are laid out in module format, which appears to include some redundancy in subject matter. Since all of the semesters are not laid out in the same format, it is impossible to determine the total curriculum for the occupation.

Moreover, 21 of the 31 lessons listed in WECA's first year construction outline include references to RELQ time within its 144 hour educational requirement. There is no definitive explanation given by the WECA Program or by the Chief of how the evaluation (other than written) and lab work portion is to be performed. The Chief's only response is that WECA provides laboratory training in WECA's Sacramento and San Diego Training Facilities. There is no explanation of how apprentices from 58 counties in a State-wide program can receive adequate laboratory training when the Program has only two functioning labs in two counties. Since laboratory, hands-on training, is essential to adequate training in the electrical trades, it simply strains credulity to believe that these facilities are adequate for a State-wide program and casts serious doubt upon

the Chief's rationale that by approving the programs, needed "skilled" electricians will be produced by the "training" provided.

Finally, in a recent WECA newsletter (a copy of which is attached hereto as Exhibit A and incorporated herein by reference as though set forth at length), the WECA Program announced and listed its 6 instructors for its state-wide program. Significantly, five of those instructors are located in Sacramento and one is located in San Diego. How can one instructor in San Diego be responsible for training all of the Southern California apprentices for this Program?⁵ It is simply impossible to provide any sort of meaningful apprenticeship classes for a five year, state-wide program with an instructional staff of this size.

Clearly, DAS never investigated the sufficiency of either the number of instructors or qualifications of instructors in the WECA Program. The importance of this failure to investigate should not be under-estimated. As everyone knows, the easiest way for a structure (be it a home, school, hospital, or high-rise) to catch on fire is through faulty wiring. Indeed, because of the disaster potential of faulty wiring, the State Legislature enacted the statutory requirements for Electrical Journeyman Certification. The fact that DAS would approve an electrical apprenticeship program for state-wide operation with only six instructors throughout the entire State, and only one instructor in Southern California, is a disaster waiting to happen.

It should be recalled that failure to comply with the Uniform Minimum Industry Standards was cited by the DAS as a reason for recommending decertification of the

⁵ In contrast, the San Diego Electrical JATC has 75 instructors for apprenticeship and journeyman upgrade training in San Diego alone.

ACTA Sheet Metal Program. There can be no justification for approving the WECA Programs when they suffer from the same defect as the ACTA Program.

VI. THE STANDARDS DO NOT LIST SUFFICIENT LEAs TO ENSURE PROPER DEVELOPMENT OF CURRICULUM, EVALUATION OF INSTRUCTOR QUALIFICATIONS AND THE ADMINISTRATION AND SUPERVISION OF RELATED AND SUPPLEMENTAL INSTRUCTION FOR A STATE-WIDE PROGRAM.

The Chief's response to questions that were raised by the Appellant Programs concerning defects in the development of the Programs' curriculum, determination of the quality of instructors and administration and supervision of RSI was insufficient at best, and completely lacking at worst. According to the Chief's Findings and Decision, all of these matters are to be determined by the Program and the LEA. However, the Programs' Standards identify only three LEAs, the Winterstern Adult Center in Sacramento, Metropolitan Education District (Sacramento) and the San Joaquin County Office of Education in Stockton.⁶

It is respectfully submitted that only three LEAs is insufficient to carry out all of the enumerated duties of an LEA contained in Labor Code Section 3074 for a State-wide Program. For instance, there are no provisions in the Programs' Standards for distance learning via computer or correspondence courses. If it is the intent of the Programs to have only these three LEAs perform all of the duties required of an I.EA, how will these three LEAs verify all of the "labs" (i.e., the San Diego Laboratory) and RELQ (review, evaluations, lab work and other questions) dealing with the curriculum? Indeed, since the vast majority of the expansion of the existing WECA Program is into Southern California, there is not one Southern California LEA listed.

⁶ While the Standards list a "School Advisor" in San Jose, no contract was submitted to establish that this "School Advisor" is an LEA or what exactly the "School Advisor's" duties will be.

The DAS has abdicated its responsibility to make certain that there are appropriate facilities and instructors to make this a meaningful state-wide program by shifting the responsibility to the LEAs. However, as the previous section demonstrates, not only are there no Southern California LEAs but, significantly, there is only one Southern California instructor, in only one county. If in fact one of the LEAs determined that one instructor for the entire Southern California area (and only six instructors for the entire State) is sufficient, it is respectfully submitted that the CAC should demand an explanation from that LEA as to what criteria it used in making this determination. At the very least, the CAC should demand an explanation from the DAS that identifies which LEA made this determination and, if no LEA is identified, an explanation of why the DAS abdicated its responsibilities in this regard.

VII. THE WECA COMMITTEE STRUCTURE IS A BARRIER TO ENSURING DUE PROCESS FOR APPRENTICES WITH GRIEVANCES AND/OR COMPLAINTS ABOUT THE PROGRAM.

Section III of the WECA submission provides that any apprentice dissatisfied with the actions of a subcommittee may appeal in writing to the Sacramento Apprenticeship Training Committee. This means, however, that an apprentice in San Diego County or in Alpine County would be required to travel to Sacramento to state his or her case. A telephonic appearance, with all due respect, is not the equivalent of a right to appear in person before the Committee that will be deciding an apprentice's future and adjudicating an apprentice's right to pursue grievances against the Program. The sheer distance involved would impede the apprentice's initiating the grievance and appeal procedures.

Similarly, there is no discussion of how the Program will ensure an adequate mechanism that will be used to provide the apprentices with reasonably continuous employment in the event of a lay-off or the inability of one employer to provide training in all work processes as required by 8 C.C.R. Section 212(14). Since there is no "hiring hall" to which the apprentices can apply for new employment, how is Section VI, Item 5 of the WECA Standards to operate if the Sacramento ATC suspends or withdraws the qualification of an employer to train? What is the resulting effect on the employer's apprentices? Does Article X, Item 2 apply? Is the apprentice's training placed in limbo until another employer agrees to assume the obligations owed to said apprentice?

Finally, since 8 C.C.R. Section 212 requires that a unilateral program provide for "meaningful representation of the apprentices in the management of the program," having only one Committee authorized to make decisions for all of the 58 counties statewide inhibits the right of apprentices outside of the Sacramento area from having any type of "meaningful representation in the management of the program."

CONCLUSION

While the Chief's Decision refers to the direction of the Sacramento Superior Court directing that the notice and comment procedures were to begin on the WECA application, no where in Judge Ohanesian's decision did she direct that the quality standards for approval should be lessened or ignored during the approval process, nor did she direct that the CAC would be excused from comply with the need showings mandated by the Legislature in Labor Code Section 3075. Therefore, each of the defects listed above, along with others raised during the comment process, should have been addressed by the Chief. In fact, the Chief did not even address the fact that these

standards do not conform to the Uniform Minimum Standards for the Electrical Industry, nor did he address the missing work processes. As such, the Chief's Findings are clearly deficient and should not form the basis for approval of these Programs.

While Appellants are fully aware of the pressures felt by DAS (and the CAC) by the threatened actions of OATELS to "derecognize" the CAC, it is respectfully submitted that the CAC should not allow political expediencies to force it to lower the quality standards of California's apprenticeship programs to the lowest common denominator nation-wide so that our programs become equal to the quality of programs found in Texas, Florida or Alabama.⁷ Apprenticeship is not a new phenomenon in California. As early as 1861, long before the enactment of the Shelley-Maloney Act, our California Supreme Court recognized the need to protect apprentices from abuses by their employers. "[f]or it is impossible for us to see why that department may not protect and regulate labor and the relations of the different members of society so that one class may not injure a dependent class--the master the apprentice ..." Ex parte Andrews (1861) 18 Cal. 678, 683. Given our history of quality apprenticeship, the CAC should not abdicate its responsibilities to the apprentices of this State solely to placate political threats.


⁷ The problem of allowing political expediency to overcome good judgment in demanding quality apprenticeship training is exacerbated by WECA's open statement in its newsletter (Exhibit A hereto) bragging that the new Governor told WECA, "Let me know if I can help" (P. 10) and WECA's further statement that "We also have it on good word that friends of WECA and the merit shop industry have been placed in key positions of power, with more to come." (P. 9) It is hard to imagine that Governor Schwarzenegger expects the CAC to disregard a century-long tradition of demanding quality in apprenticeship just to reward his political backers, and the undersigned is unwilling to make such an assumption despite WECA's open braggadocio.

For all the foregoing reasons, it is respectfully submitted that the Chief's Findings and Decisions with respect to the WECA programs should be reversed.

DATED: February 9, 2004

Respectfully submitted,

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THE WECA NEWS

Message From the President

By Darryl Vasko, President of the WECA Board of Directors, & President of Vasko Electric, Inc.

Seasons greetings to all our members, apprentices and trainees, staff and instructors and all their families. As this year ends and the promise of a vibrant new year are set to begin, I ask each of you to reflect on how far our organization has progressed.

It was just a year ago that we started the trial process to instruct our apprentices in a two-week per semester format. Through the Herculean effort and extraordinary persistence of the staff and instructors, we now have a program in place statewide that is successful, enthusiastically accepted by the majority of Apprentices and Contractors and a model equal to or better than any other program in the State.

We now have a stable, committed and knowledgeable staff and a dedicated core of instructors with labs in both Sacramento and San Diego that are rapidly growing into very useful and dynamic resources.

We have an ongoing series of journeyman classes up and running serving the needs of those journeymen desiring instruction prior to taking the state certification test.

The political climate in California has recently changed for the better. Although our struggles with the IBEW legal machine are not over, we have once again established our right to exist as an alternative organization committed to excellence while embracing the competitive spirit. Our new governor is listening to our positions on Project Labor Agreements, growth issues for merit shop programs and the fair competition policies needed in our State.

Every organization contends with challenges on a continuing basis. WECA is showing the industry that it's how those challenges are approached, accepted and overcome that matters in the fast-paced world of electrical contracting.

We saw the inevitability of state certification as a challenge to get our journeymen in compliance. Our member contractors have fully embraced the concept and actively encourage their employees to test and certify.

In a difficult economy and restrictive State policies, we have maintained our standards of excellence and progress throughout. We are now better positioned than ever to prosper in the coming years.

Currently, new programs such as distance learning, interactive classrooms, expanded curriculum for journeyman, continuing education credits plus many others are being explored and developed. We at WECA have accepted the cutting edge of training as our guide towards growth.

I urge all our members and staff to count our blessings during this joyful season. No organization can boast of better individual contributions towards our mission. This is just the beginning. This coming year's challenges may call for the best within us but we have shown we know how to respond.

I am sincerely proud for the opportunity to lead our organization during this exciting time. I am also deeply grateful that neither I nor my fellow Board Members feel we are alone preaching the virtues of self reliance and individual merit. While our businesses are on the line, the support and moral strength of all the people that make WECA what it has become is what makes it wonderful.

Thank you once again for your support and commitment to WECA.

Darryl Vasko

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www.weca-iec.org

EXHIBIT A

31 7527011 P. 23

PROOF OF SERVICE
(CCP 1013)

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2
3 I am a citizen of the United States and an employee in the County of Contra Costa, State of
4 California. I am over the age of eighteen years and not a party to the within action; my business
5 address is 180 Grand Avenue, Suite 1400, Oakland, California 94612-3752. On February 12,
6 2004, I served upon the following parties in this action:

7 **VIA HAND DELIVERY**
8 Lucille Acosta
9 **SECRETARY TO CALIFORNIA**
10 **APPRENTICESHIP COUNCIL**
11 Division of Apprenticeship Standards
12 455 Golden Gate Avenue, 8th Floor
13 San Francisco, CA 94102

VIA HAND DELIVERY
Julian Standen
Office of the Attorney General
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004

11 **VIA HAND DELIVERY**
12 Fred D. Lonsdale
13 Department of Industrial Relations -
14 Legal Unit
15 Division of Labor Standards
16 Enforcement
17 455 Golden Gate, Suite 9516 Floor
18 San Francisco, CA 94102

VIA U.S. MAIL
Western Electrical Contractors
Association & Training Committee
9719 Lincoln Village Dr., Ste 303
Sacramento, CA 95827


16 copies of the document(s) described as:

17 **APPEAL FROM DECISION OF THE CHIEF OF DAS GRANTING**
18 **APPROVAL OF APPRENTICESHIP PROGRAM AND GRANTING**
19 **APPROVAL OF STATEWIDE EXPANSION OF APPRENTICESHIP**
20 **PROGRAM**

21 **BY MAIL** I placed a true copy of each document listed herein in a sealed envelope,
22 addressed as indicated herein, and caused each such envelope, with postage thereon fully
23 prepaid, to be placed in the United States mail at Oakland, California. I am readily familiar
24 with the practice of Weinberg, Roger & Rosenfeld for collection and processing of
25 correspondence for mailing, said practice being that in the ordinary course of business, mail
26 is deposited in the United States Postal Service the same day as it is placed for collection.

27 **BY PERSONAL SERVICE** I placed a true copy of each document listed herein in a
28 sealed envelope, addressed as indicated herein, and caused the same to be delivered by
hand to the offices of each addressee.

I certify under penalty of perjury that the above is true and correct. Executed at Oakland,
California, on February 12, 2004.


Jilala Foley