



OPINION NO. 84-40A
Sec. 3(1)

OCT 26 1984

Mr. Stuart H. Young, Jr.
Hill, Farrer & Burrill
Thirty-Fourth Floor Union Bank Square
445 South Figueroa Street
Los Angeles, California 90071

Dear Mr. Young:

This is in reply to your letter of February 14, 1984, requesting an advisory opinion regarding applicability of title I of the Employee Retirement Income Security Act of 1974 (ERISA). Specifically, you ask whether the Southern California IBEW-NECA Labor-Management Cooperation Committee (SCLMCC) is an employee welfare benefit plan within the meaning of section 3(1) of title I of ERISA.

You advise that on or about June 1, 1983, the Los Angeles County Chapter, National Electrical Contractors Association (LANECA) and the International Brotherhood of Electrical Workers, Local No. 11 (Local 11) entered into a collective bargaining agreement entitled the "Inside Wiremen's Agreement" (the Agreement) for a term of 3 years. You further advise that section 7.05 to 7.07 of the Agreement created a new entity designed to function as a Labor-Management Cooperation Committee within the meaning of section 302(c)(9) of the Labor-Management Relations Act and the Labor-Management Cooperation Act of 1978. On February 8, 1984, representatives of LANECA and Local 11 adopted the Agreement and Declaration of Trust of SCLMCC (the Declaration). The Trust set up under the Declaration is referred to in Article II, Section 1 as SCLMCC and is administered by six trustees, half representing the employers and half representing the union. Article II, Section 4 of the Declaration provides:

Section 4. Purpose.

The Trust is established solely for the purpose of creating a Labor-Management Cooperation Committee under the authority of Section 6(b) of the Labor-Management Cooperation Act of 1978, 20 U.S.C. Section 175(a); and Section 302(c)(9) of the Taft-Hartley Act, 29 U.S.C. Section 186(c)(9). The permissible purposes of this Committee are established by these federal statutes and include:

- a- To improve communication between representatives of labor and management, and engender cooperative and harmonious relations between labor and management in the Southern California electrical industry;
- b- To provide workers and employers with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness;
- c- To assist workers and employers in solving problems of mutual concern not susceptible

to resolution within the collective bargaining process;

- d- To study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the plant, area or industry;
- e- To enhance the involvement of workers in making decisions that affect their working lives;
- f- To expand and improve working relationships between workers and managers;
- g- To encourage free collective bargaining by establishing continuing mechanisms for communication between employers and their employees through Federal assistance to the formation and operation of labor management committees;
- h- To foster improvements in occupational safety and health and other working conditions in the Southern California electrical industry; and,
- i- To engage in any other, lawful activities incidental or related to the accomplishment of these purposes.

The Trustees shall have the sole authority to determine which of the aforescribed program objectives shall be pursued. This trust is also established for the purpose of paying the necessary costs of administering and continuing this Trust and for accumulation of necessary reserves.

Section 3(1) of ERISA defines the term “employee welfare benefit plan” to include:

... any plan, fund, or program which was heretofore or is hereafter established or maintained by an employer or by an employee organization, or by both, to the extent that such plan, fund, or program was established or is maintained for the purpose of providing for its participants or their beneficiaries, through the purchase of insurance or otherwise, (A) medical, surgical, or hospital care or benefits, or benefits in the event of sickness, accident, disability, death or unemployment, or vacation benefits, apprenticeship or other training programs, or day care centers, scholarship funds, or prepaid legal services, or (B) any benefit described in section 302(c) of the Labor-Management Relations Act, 1947 (other than pensions on retirement or death, and insurance to provide such pensions).

Based on the information you submitted, it is the position of the Department of Labor (the Department) that SCLMCC is not an employee welfare benefit plan within the meaning of section 3(1) of title I of ERISA. SCLMCC does not provide any benefit described in section 3(1)(A) of ERISA. Further, it is the Department’s position that section 3(1)(B) of ERISA does not mean that every arrangement described in section 302(c) of the Labor Management Relations Act of 1947 (the LMRA) constitutes an employee welfare benefit plan within the meaning of section 3(1) of ERISA. Only those arrangements described in section 302(c) of the LMRA that provide benefits to participants or their beneficiaries would constitute employee welfare benefit plans.

SCLMCC does not provide, in the Department’s view, any “benefit” to participants or their beneficiaries within the meaning of title I of ERISA. Accordingly, SCLMCC would not be covered under title I of ERISA since there is also no indication it is an employee pension benefit plan.

This letter constitutes an advisory opinion under ERISA Procedure 76-1. Accordingly, this letter is

issued subject to the provisions of the procedure, including section 10 thereof relating to the effect of advisory opinions.

Sincerely,

Elliot I. Daniel
Acting Assistant Administrator for Regulations and Interpretations