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WORKING AMERICA

LAUREN SNYDER*

*Far and away the best prize that life offers is the chance to work hard at work worth doing.*¹

Work is the foundation of American society.² It is a vehicle of success, it is a means of survival, and it is the dominant metaphor for American life.³ The labor force in America is comprised of roughly 149 million people.⁴ The majority of American workers, however, are not unionized and as a result cannot act collectively to further their interests.⁵ While there are roughly 16 million union members in America, about 40 million other people would like to join unions, but cannot due to, among other reasons, opposition from their employers.⁶ Although many government regulations, such as Social Security, health care policy, and minimum wage and hour laws, affect the work force, non-unionized workers lack the collective voice to effectively advocate or lobby for their positions on these issues.

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1. Theodore Roosevelt, *The Square Deal*, Remarks before N.Y. State Agriculture Ass'n (Sept. 7, 1903).

2. See ARLIE HOCHSCHILD, *THE TIME BIND: WHEN WORK BECOMES HOME AND HOME BECOMES WORK* (1997).

3. See AMY S. WHARTON, *WORKING IN AMERICA: CONTINUITY, CONFLICT AND CHANGE* 1, 1 (1998).

4. News Release, U.S. Bureau of Labor Statistics, *Employment Situation Summary* (Jan. 6, 2006), <http://www.bls.gov/news.release/pdf/empisit.pdf>.

5. See News Release, U.S. Bureau of Labor Statistics, *Union Members in 2004* (2005), <http://www.bls.gov/news.release/union2.nr0.htm>; AFL-CIO, *The Union Difference: Trends in Union Membership*, <http://www.aflcio.org/joinaunion/why/union-difference/uniondiff11.cfm> (last visited Jan. 13, 2006).

6. See RICHARD B. FREEMAN & JOEL ROGERS, *WHAT WORKERS WANT* 140-55 (1999). See also Steve Greenhouse, *A.F.L.-C.I.O. Begins Group for Workers Not in Unions*, N.Y. TIMES, Aug. 29, 2003, at A16 (quoting AFL-CIO President John J. Sweeney as saying: "There are millions of working people who would like to be part of the A.F.L.-C.I.O.'s efforts for social justice and want a voice to speak out and work to change the direction of this country . . . Working America will give them this chance").

Working America unites non-union workers with union members on important issues affecting the labor force.⁷ For decades, union leaders have tried to find a way to reach out to workers who were not part of a union and were not likely to work in a union job.⁸ Recent political and technological developments have made it possible for union leaders to finally reach this group.⁹ First, the pro-business platform of the Republican Party, which continues to dominate the political landscape,¹⁰ has increased the need for a lobbying organization. Second, the broad availability of Internet access in a majority of homes makes it easy to communicate with non-union workers. In response to these two developments, Working America was formed in 2003.

Working America is an affiliate of the American Federation of Labor and Congress of Industrial Organizations, more commonly known as the AFL-CIO.¹¹ The AFL-CIO is a voluntary federation of America's unions that was formed in 1955 with the merger of the American Federation of Labor and the Congress of Industrial Organizations.¹² Working America members lobby alongside AFL-CIO union members to raise awareness on important issues such as min-

7. Greenhouse, *supra* note 6.

8. See Christina Cregan, *Can Organizing Work? An Inductive Analysis of Individual Attitudes Toward Union Membership*, 58 *INDUS. & LAB. REL. REV.* 282 (2005) (examining through a series of surveys why so few workers are union members and, additionally, the related problem of how to get non-members to join).

9. See Justin Kent Holcombe, *Solutions for Regulating Offshore Outsourcing in the Service Sector: Using the Law, Market, International Mechanisms, and Collective Organization as Building Blocks*, 7 *U. PA. J. LAB. & EMP. L.* 539, 587 (2005) (“[P]articipants in the service sector labor movement have turned to ‘high-tech recruitment tools on the internet that target select corporate players inside vulnerable industries such as technology.’ Some IT workers say Internet chat rooms act as highly efficient ‘union halls,’ allowing them to band together to share job information . . .”).

10. *Republicans Dominate House*, U.S.A. TODAY, Oct. 28, 2004, <http://www.usatoday.com/news/politics/elections/vote2004/house.htm>; Ursula Weide, *Health Care Reform and the Changing Standard of Care in the United States and Germany*, 20 *N.Y.L. SCH. J. INT'L & COMP. L.* 249, 289 (2000) (quoting then Republican Senate Majority Leader Trent Lott (R-Miss.) as saying “I don’t think we need more labor unions in America”).

11. Working America, Working America, Home Page, <http://www.workingamerica.org/home.cfm> (last visited Oct. 31, 2005).

12. AFL-CIO, This is the AFL-CIO, <http://www.aflcio.org/aboutus/thisistheafclcio> (last visited Oct. 31, 2005).

imum wage and social security privatization.¹³ By joining Working America, non-union workers receive various e-mails and correspondence from the AFL-CIO; but more importantly, they get “a voice to speak out and work to change the direction of this country.”¹⁴

Working America seeks to strengthen union participation at a time when union membership is declining.¹⁵ Advocates of Working America claim it will expand the reach of the labor movement by making unions more popular and more powerful politically.¹⁶

Working America uses community-based political outreach to unite working people across America.¹⁷ The organization recruits its members primarily through door-to-door canvassing in select neighborhoods.¹⁸ In its first year, Working America concentrated on Ohio, Missouri, and Washington to recruit 800,000 members, primarily through door-to-door canvassing.¹⁹ The organization hopes to provide the votes necessary in important electoral and legislative contests at a time when membership in the AFL-CIO is declining.²⁰ By becoming part of Working America, members join the 13 million members of the AFL-CIO.

According to Working America, its members’ number one concern is unemployment.²¹ Many members worry about the slowdown in economic growth and job creation, as well as the

13. AFL-CIO, Frequently Asked Questions, <http://aflcio.org/aboutus/faq> (last visited Oct. 31, 2005); Working America, About Working America, <http://www.workingamerica.org/about> (last visited Oct. 31, 2005) [hereinafter About Working America].

14. Greenhouse, *supra* note 6.

15. See *Union Activity Across the Country*, COLO. EMPLOYMENT LAW LETTER (Holland, Hart LLP) May, 2005, at 1, which reports:

Union membership continues to decline. Union membership dropped again in 2004 to 12.5%, down from 12.9% the previous year, says a recent report from the Bureau of Labor Statistics (BLS). The percentage of the U.S. workforce that’s unionized has steadily declined since 1983 (the first year the BLS kept track of union membership), when 20.1 % of U.S. workers were unionized.

16. Greenhouse, *supra* note 6.

17. *Id.*

18. *Id.*

19. WORKING AMERICA, BUILDING WORKING AMERICA: A COMMUNITY AFFILIATE OF THE AFL-CIO 1 (2005) [hereinafter BUILDING WORKING AMERICA].

20. *Id.*

21. Working America, You Decide the Future Priorities of Working America, <http://www.workingamerica.org/vote/index.cfm> (last visited Nov. 17, 2005).

elimination of existing jobs.²² In particular, many worry about the continued exportation of manufacturing jobs to foreign countries and the increasing number of white-collar jobs now being outsourced.²³ Working America focuses much of its lobbying efforts around these issues. It makes petitions available on its website that members can sign to urge President George W. Bush and legislators to protect American jobs and slow the rate of outsourcing.²⁴ Working America also created a comprehensive website for tracking companies that have exported their jobs overseas.²⁵ The web site offers a tool called “job-tracker” that allows people to search by state for companies that have closed, laid off workers or exported jobs overseas since January 2001.²⁶

Many members of Working America are also upset by President Bush’s overtime pay reforms. President Bush proposed regulatory changes in April 2004, which have increased the number of employees who are considered “exempt” under the Fair Labor Standard Act.²⁷ Exempt employees are ineligible to receive overtime pay when they work more than a forty-hour work week.²⁸ In response, Working America organized 35,000 of its members to send letters of protest.²⁹

Health care is another major concern of Working America members. According to a U.S. Census Bureau report, 45 million

22. Working America, *America Has a Job Crisis*, <http://www.workingamerica.org/issues/jobs.cfm> (last visited Nov. 17, 2005).

23. According to the AFL-CIO, U.S. companies will export roughly 406,000 American jobs overseas in 2005. *See Corporations Doubled the Number of Jobs Sent Overseas in the Last Three Years*, NEWS FOR WORKING FAMILIES (AFL-CIO), Oct. 20, 2005, available at <http://www.aflcio.org/yourjobeconomy/jobs/ns10202004.cfm>.

24. *See* Working America, *Take Action: Tell Bush and Congress to Stop Exporting Jobs*, <http://www.unionvoice.org/campaign/protectjobs> (last visited Oct. 31, 2005).

25. Tom Matthews, *Labor-Affiliated Web Site Tracks Layoffs, Outsourcing*, COLUMBUS DISPATCH, Sept. 18, 2004, at 1E.

26. *Id.*

27. Ross Eisenbrey, *Longer Hours, Less Pay: Labor Department’s New Rules Could Strip Overtime Protection from Millions of Workers*, ECONOMIC POL’Y INST. BRIEFING PAPER (2004), <http://www.epinet.org/briefingpapers/152/bp152.pdf>.

28. *Id.*

29. BUILDING WORKING AMERICA, *supra* note 19, at 2. Despite the group’s efforts, however, the new rules went into effect on August 23, 2004. *See also* Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees, 29 C.F.R. § 541 (2004).

people were without health insurance in 2003.³⁰ Traditionally, workers have been insured through their employer. In light of the growing cost of insuring employees, however, some employers are dropping health insurance coverage.³¹ For those who do get insurance coverage from their employers, Working America members' growing concern is that employers are shifting the cost of coverage back on to employees in the form of higher premiums and less coverage.³² Employees are also being hurt by the rising cost of prescription drugs.³³ In response, Working America has partnered with the AFL-CIO to lobby federal and state legislators to require employers to contribute more to employee healthcare plans.³⁴

The members of Working America are also concerned about retirement security. Traditionally, retirees depended upon three sources of income in their retirement years: employer pensions, Social Security, and savings.³⁵ While many employers used to provide pension plans, now only 16% of non-union workers have pensions that pay guaranteed amounts.³⁶ Many other pension plans have failed, or are unable to pay full benefits.³⁷ This has left many retirees completely reliant on Social Security and savings for their retirement income. Social Security, however, faces a fiscal crisis and many experts have warned that the system may become insolvent.³⁸ Working America has been lobbying legislators to protect Social Security in its existing form, in the hopes that the organization's col-

30. U.S. Census Bureau, *Income, Poverty, and Health Insurance Coverage in the United States: 2004, (2005)*, <http://www.census.gov/prod/2005pubs/p60-229.pdf>.

31. *Id.*

32. Working America, *Health Care Crisis*, <http://workingamerica.org/issues/healthcare.cfm> (last visited Jan. 19, 2006).

33. *Id.*

34. AFL-CIO, *What's Wrong with America's Health Care*, <http://www.aflcio.org/issues/healthcare/whatswrong/> (last visited Oct. 31, 2005).

35. Working America, *America's Workers Deserve Retirement Security*, <http://www.workingamerica.org/issues/retirement.cfm> (last visited Oct. 31, 2005).

36. *Id.*

37. *Pension Promises Broken*, AMERICA@WORK (AFL-CIO), Feb. 2005, at 1.

38. See Congressional Budget Office, *Updated Long-Term Projections for Social Security* (May 2005), <http://www.cbo.gov/SocialSecurity.cfm#p12>. *But see* Neil H. Buchanan, *Social Security, Generational Justice, and Long-Term Deficits*, 58 TAX L. REV. 275 (2005) (arguing that the current methods for evaluating the long-term solvency and viability of the existing social security system are inappropriate and misleading).

lective strength will influence the outcome of this ongoing legislative battle.³⁹

Working America uses research, education, and communication to determine which issues matter most to its members.⁴⁰ For example, Working America distributes online questionnaires that ask members to rank the issues that are most important to them. The organization then uses this information to set priorities for the year's political agenda.⁴¹ Members can subscribe to receive e-mail updates about current issues such as healthcare or education.⁴² Working America also provides access to legislators' voting records, giving members important information about their representatives.⁴³

Working America is also taking steps to increase the educational opportunities for its members' children. It advocates on behalf of its members for decreased class size, more teachers, and improved school facilities.⁴⁴ Working America also seeks to prevent private school vouchers from channeling public money into private schools with taxpayer dollars.⁴⁵

To encourage political participation, members receive action alerts by e-mail explaining how they can get involved in shaping local, state, and national policies.⁴⁶ In its first year, Working America also distributed 1.5 million fliers on issues affecting the union movement through door-to-door canvassing.⁴⁷ The organization's goal was to reach swing voters in key states to provide them

39. Working America, Working America Take Action!, <http://www.workingamerica.org/actions/> (last visited Oct. 31, 2005) [hereinafter Working America Take Action!].

40. About Working America, *supra* note 13.

41. Working America Take Action!, *supra* note 39.

42. *Id.*

43. Working America, Join Working America, <http://www.workingamerica.org/join/index.cfm> (last visited Oct. 31, 2005).

44. Working America, A World Class Education in First-Class Schools, <http://www.workingamerica.org/issues/education.cfm> (last visited Oct. 31, 2005).

45. Traditionally, organized labor unions have been adamantly opposed to school voucher programs, and have used every ounce of their political capital to fight the implementation of such programs. See, e.g., R. Bradley Adams, *Union Dues and Politics: Workers Speak out Against Unions Speaking for Them*, 10 UNIV. FLA. J.L. & PUB. POL'Y 207, 224 (1998).

46. Join Working America, *supra* note 43.

47. BUILDING WORKING AMERICA, *supra* note 19, at 2.

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with information about economic issues and to recruit them as members.⁴⁸ Working America targeted select neighborhoods and succeeded in reaching primarily white, working class, politically neutral, and non-partisan people.⁴⁹ According to the organization, two out of every three people targeted joined Working America.⁵⁰

Between February and November 2004, Working America campaigned for Presidential candidate John Kerry, whom it believed would best promote the interests of American workers.⁵¹ Working America members who provided a mailing or e-mail address received updates on voter registration, candidate and issue comparisons, and get-out-the-vote messages.⁵² Working America made an effort to reach members on what it termed “kitchen table issues:” overtime pay, exporting jobs overseas, healthcare and higher education costs.⁵³ It canvassed in three states, Ohio, Florida, and Missouri, recruiting over 750,000 members.⁵⁴

Peter D. Hart Research Associates’ tracking polls leading up to the election reported that white males favored President Bush by twenty-three percentage points.⁵⁵ In contrast, however, white men who were members of Working America favored Kerry by twenty-one percentage points.⁵⁶ Similarly, married women in Ohio, Florida, and Missouri voted for Bush by a margin of thirteen percentage points while married women who were members of Working America favored Kerry by twenty-three percentage points.⁵⁷ During the months leading up to the election, Working America members favored Kerry by eighteen percentage points.⁵⁸ In the two months preceding the election, Working America intensified its communication with its members, causing support for Kerry to climb by

48. *Id.*

49. *Id.*

50. *Id.*

51. *Id.* at 4.

52. *Id.* at 3.

53. Robert L. Borosage, *Staying the Course*, AM. PROSPECT, Dec. 6, 2004, at 44, available at <http://www.prospect.org/web/page.wv?section=root&name=ViewPrint&articleId=8891>.

54. *Id.*

55. *Id.*

56. *Id.*

57. *Id.*

58. BUILDING WORKING AMERICA, *supra* note 19, at 5.

twelve percentage points in Ohio, Florida, and Missouri while he remained in a dead heat with President Bush in the rest of the nation.⁵⁹ While its campaign did not win the election, Working America was able to influence the political process through communication and advocacy on behalf of its members.

Not surprisingly, most members of Working America are pro-worker and pro-union. In November 2004, a poll of approximately 800 members revealed that roughly 60% strongly supported unions and came from a union household or had been a union member.⁶⁰ Sixty-one percent said they were willing to be active on issues that were important to them; 20% said they were very willing to be active.⁶¹

By becoming a member of Working America, non-union workers and retirees participate in shaping our nation's labor policy. Unions already represent a significant force in American politics. Working America strengthens their shared cause by uniting non-union workers and retirees with union groups to form an even stronger political voice.

59. *Id.*

60. *Id.* at 3.

61. *Id.*