Description of document: Written responses or letters from the National Labor Relations Board (NLRB) to a Congressional Committee or Committee Chair, 2012 - 2013

Requested date: 18-April-2013

Released date: 07-June-2013

Posted date: 18-November-2013

Source of document: NLRB FOIA Officer
National Labor Relations Board
1099 14th Street, N.W., Room 10600
Washington, D.C. 20570
Fax: (202) 273-FOIA (3642)

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DATE: June 7, 2013

Re: FOIA ID/LR-2013-0470
    ES-2013-0025

This is the final response to your FOIA request, dated April 18, 2013, and received in this Office on April 26, 2013, in which you seek copies of written responses or letters from the NLRB to congressional committees (not congressional offices) (or committee chairs) for calendar years 2012 and 2013 to the present. You exclude from the scope of your request periodic reports and constituent responses to congressional offices.

Interim responses were sent to you on May 10, and May 24, 2013.

In accordance with the FOIA, the Agency has conducted a reasonable search for any responsive documents as of April 26, 2013. As to your request from the General Counsel's side of the Agency, my Office made inquiries of the Division of Operations-Management and the Office of the General Counsel. The Division of Operations-Management reported that they conducted a search of their records and found no responsive documents. The Office of the General Counsel found 51 pages of responsive documents. Those documents are enclosed.

As to your request from the Board-side of the Agency, the Office of the Executive Secretary made inquiries of the Board Chairman and Members, and the Special Counsel for Congressional and Intergovernmental Affairs and found 20 pages of responsive documents. Those documents are enclosed.

For the purpose of assessing fees, I have placed you in Category III, "all other requesters" category. As a requester in this category, you will not be charged for the first 100 pages of duplication or the first two hours of search time. NLRB Rules and Regulations, 29 C.F.R § 102.117(d)(2)(ii)(D). Accordingly, there is no charge for processing this FOIA request.
As to the above determination from the General Counsel’s side of the Agency, the undersigned is responsible for the determination. You may obtain a review thereof under the provisions of the NLRB’s Rules and Regulations, Section 102.117(c)(2)(v), by filing an appeal with the General Counsel, Office of Appeals, National Labor Relations Board, Washington, D.C., 20570, within 28 calendar days of the date of this letter. Thus, the appeal must be received by the close of business at 5:00 p.m. (ET) on July 5, 2013. Any appeal should contain a complete statement of the reasons upon which it is based. Questions concerning an appeal of this determination should be directed to the Office of Appeals.

As to the above determination from the Board-side of the Agency, the undersigned is responsible for the determination. To the extent you wish to appeal this determination, you may, pursuant to the NLRB Rules and Regulations, Section 102.117(c)(2)(v), file an appeal with the Chairman of the Board, National Labor Relations Board, Washington, D.C., 20570, within 28 calendar days of the date of this letter, that is, on or before July 5, 2013. Questions concerning an appeal of this determination should be directed to the Office of the Chairman.

Sincerely,

[Signature]
Jacqueline A. Young
Freedom of Information Officer

Enclosures

pl/kmb
LR-2013-0470.final
ES-2013-0025.final
October 5, 2012

The Honorable John Kline, Chairman
U.S. House Committee on Education and the Workforce
2181 Rayburn House Office Building
Washington, D.C. 20515-6100

Dear Chairman Kline:

Please find enclosed a CD containing documents responsive to the Committee's August 8, 2012 request for information. In addition, Agency staff has contacted Committee staff to arrange the briefing requested in the August 8 letter.

Please do not hesitate to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at (202) 273-3700 if you would like additional assistance regarding this matter.

Sincerely,

[Signature]

William Cowen
Solicitor

Enclosures

cc: The Honorable George Miller, Ranking Minority Member
    Committee on Education and the Workforce
May 23, 2012

The Honorable John Kline, Chairman  
Committee on Education and the Workforce  
House of Representatives  
2181 Rayburn House Office Building  
Washington, DC 20515-6100

Dear Chairman Kline:

I write in response to your May 9, 2012 letter regarding Guidance Memorandum GC 12-04. As you may know, on May 15, 2012, the Office of the General Counsel withdrew that memorandum and directed Regional Directors to process petitions under the procedures in effect before April 30, 2012.

Prior to the short-lived implementation of that memorandum, Regional practices with regard to scheduling pre-election hearings after the filing of a petition lacked uniformity and varied widely. For example, at the time that memorandum was issued, after a petition was filed, the notice of hearing initially scheduled the hearing in: 10 days in 19 offices, 7 days (or 5 “working days”) in six offices, 8-10 days in two offices, 10-12 days in two offices, 7-10 days in one office, 9-12 days in one office, and 10-14 days in one office. No Region initially scheduled hearings to take place more than 14 days after the filing of a petition.

Although the Regions have reverted to their prior practices with respect to the scheduling of pre-election hearings, they will maintain their practice, which has been in place since at least 1990, that postponements should not be granted unless good and sufficient grounds are shown. In fact, since 1998 Regions have been instructed to open hearings within 10 – 14 days from the filing of the petition, whenever possible. As you may know, Regional Directors have broad discretion to adapt the proceedings to the facts of individual cases. The standard for determining whether a postponement should be granted is intended to be sufficiently broad to encompass a variety of circumstances and situations. As a result, the average length of time between filing a petition and the opening of a hearing, from October 2006 through August 2011, was 15 days. While Regions do not initially schedule, as a matter of practice, pre-election between filing a petition and the actual opening of a hearing during the same period was 14 days. Finally, it is important to note that in about 90 percent of the cases,

2 See NLRB Casehandling Manual, Part Two, Representation Elections, § 11140 (“Prior to the opening of a hearing, the Regional Director retains full authority with regard to a notice of hearing that has issued and may amend a notice of hearing, if need be, at any time prior to the opening of the hearing.”).
3 Cases blocked by unfair labor practice charges were not included in the calculation of the average.
with Board agent assistance, the parties agree to the election details, including the appropriate unit, the payroll period to be used in determining which employees in the appropriate unit are eligible to vote, and the method, place, date, and hours of voting. I am confident that utilizing the established standard for determining when postponement requests should be granted will continue to allow Regional Directors to evaluate the facts of each case, reaching decisions that ensure fairness to all the parties while avoiding unnecessary delay.

Enclosed please find documents and information related to the practices of each Region with respect to scheduling pre-election hearings and postponement of pre-election hearings. Please do not hesitate to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at 202-273-3700 if you would like additional assistance regarding this matter.

Sincerely,

Lafe E. Solomon
Acting General Counsel

Enclosures

cc: The Honorable George Miller, Ranking Minority Member
Committee on Education and the Workforce
May 9, 2012

Lafe E. Solomon
Acting General Counsel
National Labor Relations Board
1099 14th Street, N.W.
Washington, D.C. 20570

Dear Acting General Counsel Solomon:

I respectfully request information, documents, and communications relating to the new National Labor Relations Board (NLRB) policy requiring that representational pre-election hearings be scheduled seven days from the date the Notice of Representation Hearing (NOH) is issued. The Workforce Democracy and Fairness Act, passed last year by the U.S. House of Representatives, required at least 14 days between the NOH and the pre-election hearing. The 14 days would provide employers with a fair opportunity to hire an attorney, identify issues, and prepare their case for the pre-election hearing and give parties an opportunity to compromise and agree on election issues. Ensuring a fair pre-election hearing, an opportunity for compromise and agreement, and the ability of employees to make an informed decision with respect to union representation continues to be a priority for the committee.

On June 22, 2011, the NLRB proposed a number of changes to the union representational election process, including requiring the pre-election hearing to be scheduled seven days after the issuance of the NOH absent special circumstances. Small employers were particularly concerned with this requirement, as many had no previous experience with union elections or NLRB procedures. On July 7, 2011, John Carew, President of Carew Concrete & Supply Company, stated before the House Committee on Education and the Workforce that "it frequently takes longer than seven days to find and hire a consultant to advise them on their rights, abilities, and the complexity of union election regulations." By the close of the comment

period, the Board had received more than 65,000 public submissions.\(^2\) Many of the comments argued the proposal would significantly shorten the time between the petition and the election, thus limiting employer free speech and employee free choice.\(^3\)

Six months after introduction of the proposed rules, on December 21, 2011, the NLRB issued a final rule implementing a portion of the proposed rule. The seven day pre-election hearing requirement was not among those adopted. In the final rule, the Board specifically "decided to take no action at this time … in order to permit more time for deliberation."\(^4\)

Despite this clear statement that further deliberation by the Board was necessary, on April 26, 2012, you implemented a similar seven day pre-hearing requirement. Specifically, the new guidance requires NLRB regional offices to schedule the pre-election hearing seven days from the date of issuance of the NOH.\(^5\) Under the new guidance, a postponement of seven days or less "will not be granted unless good and sufficient grounds are shown," and a postponement of more than seven days will only be granted in "extraordinary circumstances."\(^6\) This new requirement could impede a fair pre-election hearing, particularly for small employers; reduce opportunities for compromise and agreement; and undermine a worker's ability to make an informed decision.

To ensure the new seven day requirement does not impede fair pre-election hearings, opportunities for compromise and agreement, or employee free choice, and to better understand the basis for this new requirement, please provide the following no later than May 23, 2012:

1. Documents and communications relating to the seven day pre-election hearing requirement, including any communications between the General Counsel's office and Board members;

2. Identify each NLRB regional office in which, prior to this guidance, it was the policy that pre-election hearings were scheduled seven days after the issuance of the NOH, and include the date in which this policy was implemented;

3. Identify each NLRB regional office in which, prior to this guidance, it was not the policy that pre-election hearings were scheduled seven days after the issuance of the NOH;

4. List each case since January 1, 2000, in which the time between the notice and pre-election hearing was extended or a request to extend the time between the notice and pre-election hearing was denied, including grounds for the denial or granting of the extension, the region in which the case occurred, the number days granted, and the size of the unit;

\(^2\) Regulations.gov, NLRB-2011-0002, RIN 3142-AA08, available at http://www.regulations.gov/#/docketDetail;dct=FR%252BPR%252BN%252BOD%252BDR%252BSR;rpp=10;po=0;D=NLRB-2011-0002 (last visited 10/27/11).

\(^3\) 76 FR 80138, 80150 (December 22, 2011).

\(^4\) Id. at 80162.

\(^5\) Office of the NLRB General Counsel Memorandum GC 12-04, pg. 4 (April 26, 2012).

\(^6\) Id. at 5.
5. The annual average and median time between the notice and pre-election hearing nationally and by region since 2000; and

6. Documents and communications relating to what qualifies as "good and sufficient grounds" for extension.

If you have any questions regarding this request, please contact Marvin Kaplan, House Committee on Education and the Workforce Committee, at (202) 225-7101.

Sincerely,

[Signature]

John Kline
Chairman
Committee on Education and the Workforce

cc: The Honorable George Miller, Senior Democratic Member, Committee on Education and the Workforce
Responding to Committee Document Requests

1. In complying with this request, you should produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.

2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.

3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.

4. Documents produced in electronic format should also be organized, identified, and indexed electronically.

5. Electronic document productions should be prepared according to the following standards:

   (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.

   (b) Document numbers in the load file should match document Bates numbers and TIF file names.

   (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.

6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when they were requested.

8. When you produce documents, you should identify the paragraph in the Committee's request to which the documents respond.

9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.

11. If compliance with the request cannot be made in full, compliance shall be made to the extent possible and shall include an explanation of why full compliance is not possible.

12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.

13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.

14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

15. The time period covered by this request is included in the attached request. To the extent a time period is not specified, produce relevant documents from January 1, 2009 to the present.

16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.

17. All documents shall be Bates-stamped sequentially and produced sequentially.

18. Two sets of documents should be delivered, one set to the Majority Staff in Room 2181 of the Rayburn House Office Building and one set to the Minority Staff in Room 2101 of the Rayburn House Office Building.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.
Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication. bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, correspondences, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email, regular mail, telexes, releases, or otherwise.

3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

4. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.

6. The term "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
April 18, 2012

The Honorable Darrell Issa, Chairman
Committee on Oversight and Government Reform
House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Issa:


1. Please expand on any personal interest you have in Beck issues.

   My personal interest in Beck issues is not unlike my interest in other matters enumerated in Memorandum GC 11-11. It is, simply stated, to ensure that our statute is enforced. Since 1998, the Office of the General Counsel has consistently enforced the same policy with respect to Beck objectors. See, Memorandum GC 98-11, Guidelines Concerning Processing of Beck Cases, August 17, 1998. Over the last three years, cases involving Beck objectors have resulted in favorable Board decisions and workers have received offers of reinstatement, back pay, and dues and fees reimbursement totaling about $118,000.

2. How many alleged Beck violations are currently pending before the Office of the General Counsel? There are 118 alleged Beck violations currently pending in the Regional Offices of the Office of the General Counsel.

   a. How many alleged Beck violations have resulted in the issuance of a complaint? 17

   b. How many alleged Beck violations have resulted in the issuance of a settlement? 147

      i. What type of relief has been provided to workers who received a settlement? Workers, who have alleged Beck violations in addition to other violations of the Act, have received a cumulative total of about $118,000.00 in back pay and dues and fees reimbursement, and 9 workers were offered reinstatement. For more details see the enclosed chart.

   c. How many alleged Beck violations have been dismissed without the issuance of a complaint? Please explain the basis of each dismissal. 175. In fiscal year 2011, approximately 28% of all charges filed resulted in a settlement and approximately 6% of all charges filed resulted in the issuance of a complaint. Similar data for other fiscal years is available on the Agency's website at http://www.nlrb.gov/charges-and-complaints. Please see the enclosed chart to see a list of all closed cases. For all
cases dismissed on or after June 1, 2011, final dismissal letters should be posted on the Agency's website. Memorandum GC 11-12, Drafting and Redacting Agency Documents, April 29, 2011.

3. How many alleged Beck violations are pending before the Board? 3
   a. How many alleged Beck violations have been decided by the Board? 7
   b. How many of these cases have been decided in favor of the union? 1
   c. How many of these cases have been decided in favor of the worker? 6

4. What is the average amount of time it takes the Office of the General Counsel to process an alleged Beck violation – from the filing date to a final disposition? Please provide an accounting of each alleged Beck violation and the length of time it took for the charge to reach a final disposition. 89.7 days. See enclosed chart.

   a. How does the average amount of time it takes to process an alleged Beck violation compare to the average amount of time it takes to process other unfair labor practice charges? In fiscal year 2011, the Office of the General Counsel closed 72.5% of all C cases within 120 days. This data for other fiscal years can be found in the Agency's annual performance and accountability reports, which are available on line at http://www.nlrb.gov/annual-reports.

5. What is the average amount of time it takes for the Board to issue a decision in an alleged Beck violation? Please provide an accounting of each alleged Beck violation decided by the Board and the length of time it took to render a decision. Please see enclosed chart.

6. Does the Office of the General Counsel maintain the policy outlined in a 1998 General Counsel Memorandum that an unfair labor charge alleging improper agency fee charge should be dismissed if the objecting party generally asserts that he has been improperly charged?

   a. Does the Office of the General Counsel maintain the policy that a worker must "present evidence or ... give promising leads that would lead to evidence that would support [a Beck violation]?" Under the policy set forth in the answer above, a Beck objector must provide some evidence, or at least a promising lead of evidence, in support of an assertion that he or she is being unlawfully charged for a particular expenditure identified by the union as representational. Memorandum GC 98-11, Guidelines Concerning Processing of Beck Cases, August 17, 1998. If he or she does not provide some such evidence or a promising lead of such evidence, the charge will be dismissed. Further, a Beck objector can always challenge the union’s Beck-objector fee through the internal challenge procedure that the union is legally required to maintain, and the burden is on the union to establish that the expenditure is related to representational activities. Evidence presented during this proceeding can be used in support of an unfair labor practice charge filed with our Agency.
b. How does the Office of the General Counsel define a "promising lead?" As set forth in the answer above, a "promising lead" is evidence or information which points to a prima facie case of a violation. Charging parties can meet this burden by presenting evidence or other information that some of the expenditures claimed as chargeable were for non-representational activities. If a charging party raises a question regarding the chargeability of a category of expenses that could potentially include non-representational matters (e.g., the cost of a union news letter, which often address both non-representational and representational issues), the Office of the General Counsel would seek the union's explanation as to why those expenses were treated as representational and, if that explanation is not satisfactory, a complaint would issue.

c. How many cases have been dismissed by the Office of the General Counsel because a worker could not "present evidence" or a "promising lead" of an alleged Beck violation?

7. Does the Office of the General Counsel maintain the policy that "cases raising questions as to whether the charging party has met [the evidence burden] should be submitted to the Division of Advice?" Although Regional Offices were originally directed to submit these cases to the Division of Advice, there has been no such instruction in place since 2002. However, Regional Offices have the discretion to submit any case to the Division of Advice. Since January 20, 2009, there have been two such cases submitted.

a. If so, how many cases of alleged Beck violations has the Division of Advice determined to have met the burden? 1

b. How many cases of alleged Beck violations has the Division of Advice determined has not met the burden? 1

8. Does the Office of the General Counsel maintain the policy that the union must verify by an audit that the chargeable and non-chargeable expenditures were made? The Office of the General Counsel follows extant Board law, which requires that unions verify by an independent audit that the claimed chargeable and non-chargeable expenditures were made. See Television Artists AFTRA (KGW Radio), 327 NLRB 474 (1999).

9. How many cases have been referred to the Division of Advice concerning the "type and level of audits unions must give Beck objectors?"

a. What is the current status of such cases? The Division of Advice authorized complaint and the case is pending.

b. How many resulted in the issuance of a complaint? 1

c. How many have been dismissed? 0

d. How many are pending before the Board? 0

10. How many cases have been referred to the Division of Advice that concern "whether Beck objectors are entitled to audits along with the notice of their Beck rights?"

a. What is the current status of such cases? N/A
b. How many resulted in the issuance of complaint? N/A

c. How many have been dismissed? N/A

d. How many are pending before the Board? N/A

11. Did you participate in advising the Board in its issuance of the "Employees Rights Under the National Labor Relations Act" poster rule? If so did you advise the Board they should consider including in the notice notification of a workers' Beck rights under the National Labor Relations Act in the poster? If not, why not? No, I did not participate in advising the Board in its issuance of the "Employees Rights Under the National Labor Relations Act" poster rule.

Please do not hesitate to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at (202) 273-3700 if you would like additional assistance regarding this matter.

Sincerely,

E. Solomon
Acting General Counsel

Enclosures

cc: The Honorable Elijah E. Cummings, Ranking Minority Member Committee on Oversight and Government Reform
The House Committee on Oversight and Government Reform is examining the use of union dues and fees to fund political causes contrary to the will of many union workers. On February 8, 2012, the Committee held a hearing entitled, “The Right to Choose: Protecting Union Workers from Forced Political Contributions,” that featured three union workers who testified that their rights are being violated by the use of their dues to support political activity. The full hearing video and testimony of all of the witnesses are available at http://issues.oversight.house.gov/worker-rights. I write to request additional information to further inform the Committee in its oversight of these issues.

It is indisputable that union political speech is subject to First Amendment protections; however, the First Amendment also protects against compelled speech of union workers. Indeed, the U.S. Supreme Court has long recognized that constitutional and statutory protections exist to protect a limited number of union workers from forced political contributions.\(^1\) In a significant victory for these union workers, the Supreme Court held in *Communications Workers of America et al. v. Beck et al.*, that the National Labor Relations Act does not allow a union, over the objection of dues-paying nonmember workers, to spend fees on activities unrelated to collective bargaining and other representational activities.\(^2\) Subsequent to this decision, the National Labor Relations Board (NLRB) mandated that unions abide by limited notification procedures to inform a union worker of their *Beck* rights and to object to non-representational expenditures by the union.\(^3\)

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Nevertheless, worker rights advocates have expressed concern that significant government and union-imposed barriers remain for workers to exercise their rights. Federal notification requirements have been rolled back under the Obama Administration, and Terry Bowman, a "proud" UAW member, testified at the hearing that he believes the UAW places only a "small paragraph" in its Solidarity Magazine just once a year to notify its workers about their Beck rights. Further, it appears that the UAW requires that Beck objections must be renewed each year. Disturbingly, Mr. Bowman explained that "workers who [do] exercise their Beck rights are frequently the victims of humiliation, persecution and harassment on the job for resigning their union membership, and union officials do nothing to stop or even discourage this intimidating tactic."

It appears that "Beck issues" are a "policy issue in which [you are] particularly interested." In light of this interest, and to assist the Committee in its examination of these issues, I request that you answer the following questions and provide relevant documents to substantiate your responses from the time period January 20, 2009, to present. A response is requested by April 18, 2012. For the purpose of the questions, an alleged "Beck violation" is defined as the collection of union fees as a condition of employment in excess of what is permitted under the Supreme Court's decision in Communications Workers v. Beck or without providing one or more of the procedural protections required under Beck as applied by the courts and the Board.

1. Please expand on any personal interest you have in Beck issues.

2. How many alleged Beck violations are currently pending before the Office of General Counsel?
   a. How many alleged Beck violations have resulted in the issuance of a complaint?
   b. How many alleged Beck violations have resulted in a settlement?
      i. What type of relief has been provided to workers who received a settlement?
   c. How many alleged Beck violations have been dismissed without the issuance of a complaint? Please explain the basis for each dismissal.

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8 Memorandum GC 11-11, Office of the General Counsel, Mandatory Submissions to Advice, Apr. 12, 2011.
3. How many alleged Beck violations are pending before the Board?
   a. How many alleged Beck violations have been decided by the Board?
   b. How many of these cases have been decided in favor of the union?
   c. How many of these cases have been decided in favor of the worker?

4. What is the average amount of time it takes the Office of General Counsel to process an alleged Beck violation—from the filing date to a final disposition? Please provide an accounting of each alleged Beck violation and the length of time it took for the charge to reach a final disposition.
   a. How does the average amount of time it takes to process an alleged Beck violation compare to the average amount of time it takes to process other unfair labor practice charges?

5. What is the average amount of time it takes for the Board to issue a decision in an alleged Beck violation? Please provide an accounting of each alleged Beck violation decided by the Board and the length of time it took to render a decision.

6. Does the Office of General Counsel maintain the policy outlined in a 1998 General Counsel Memorandum that "an unfair labor charge alleging improper agency fee charges should be dismissed if the objecting party generally asserts that he has been improperly charged?"  
   a. Does the Office of General Counsel maintain the policy that a worker must "present evidence or ... give promising leads that would lead to evidence that would support [a Beck violation]?"
   b. How does the Office of General Counsel define a "promising lead?"
   c. How many cases have been dismissed by Office of General Counsel because a worker could not "present evidence" or a "promising lead" of an alleged Beck violation?

7. Does the Office of General Counsel maintain the policy that "cases raising questions as to whether the charging party has met [the evidence burden] should be submitted to the Division of Advice?"
   a. If so, how many cases of alleged Beck violations has the Division of Advice determined to have met the burden?

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10 Id.
11 Id.
b. How many cases of alleged Beck violations has the Division of Advice determined has not met the burden?

8. Does the Office of General Counsel maintain the policy that the union must verify by an audit that the chargeable and non-chargeable expenditures claimed were made?

9. How many cases have been referred to the Division of Advice concerning "the type and level of audits unions must give Beck objectors?"\(^1\)
   a. What is the current status of such cases?
   b. How many have resulted in the issuance a complaint?
   c. How many have been dismissed?
   d. How many are pending before the Board?

10. How many cases have been referred to the Division of Advice that concern "whether Beck objectors are entitled to audits along with the notice of their Beck rights?"\(^2\)
    a. What is the current status of such cases?
    b. How many resulted in the issuance of a complaint?
    c. How many have been dismissed?
    d. How many are pending before the Board?

11. Did you participate in advising the Board in its issuance of the "Employee Rights Under the National Labor Relations Act" poster rule?\(^3\) If so, did you advise the Board that they should consider including in the notice notification of a workers' Beck rights under the National Labor Relations Act in the poster? If not, why not?

In preparing your answers to these questions, please answer each question individually and include the text of each question with your response. When producing documents to the Committee, please deliver production sets to the Majority Staff in room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

\(^1\) Memorandum GC 11-11, Office of the General Counsel, Mandatory Submissions to Advice, Apr. 12, 2011.
\(^2\) Id.
Mr. Lafe Solomon
April 4, 2012
Page 5 of 5

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X. An attachment to this letter provides additional information about responding to the Committee's request.

If you have any questions about this request, please contact the Committee at 202-225-5074. Thank you for your attention to this matter.

Sincerely,

Darrell Issa
Chairman

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Minority Member
Responding to Committee Document Requests

1. In complying with this request, you should produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.

2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.

3. The Committee’s preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.

4. Documents produced in electronic format should also be organized, identified, and indexed electronically.

5. Electronic document productions should be prepared according to the following standards:

   (a) The production should consist of single page Tagged Image File (“TIF”), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.

   (b) Document numbers in the load file should match document Bates numbers and TIF file names.

   (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when they were requested.

8. When you produce documents, you should identify the paragraph in the Committee's request to which the documents respond.

9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.

10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.

11. If compliance with the request cannot be made in full, compliance shall be made to the extent possible and shall include an explanation of why full compliance is not possible.

12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.

13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.

14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

15. The time period covered by this request is included in the attached request. To the extent a time period is not specified, produce relevant documents from January 1, 2009 to the present.

16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.
17. All documents shall be Bates-stamped sequentially and produced sequentially.

18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email, regular mail, telexes, releases, or otherwise.

3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might
otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

4. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.

6. The term "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
April 13, 2012

The Honorable John Kline, Chairman
Committee on Education and the Workforce
House of Representatives
2181 Rayburn House Office Building
Washington, DC 20515-6100

Dear Chairman Kline:

Thank you for your interest in the efforts of the National Labor Relations Board (the Agency) to inform employers and employees about the right under the National Labor Relations Act (the Act) to engage in protected concerted activity. These efforts to ensure proper administration of the Act have enjoyed broad support on both the Board and General Counsel side of the Agency.

The effort began in 2006 when former General Counsel Ronald Meisburg announced his intention to contact high schools, trade schools, local community colleges and other community organizations to provide information about the types of cases the Agency handles, "including those involving concerted protected activities as well as union activities." In the Agency's fiscal year 2007 Performance and Accountability Report, General Counsel Meisburg noted that under the Act "workers are also afforded workplace protections for engaging in... protected concerted activities, and it is these protections of which workers need to be informed." He announced further that under his expanded outreach program, "NLRB agents independently or also in partnership with others such as the Equal Employment Opportunity Commission, are initiating contact with schools, community groups, churches, business organizations, and others to provide information about the NLRB, and the rights and obligations under the NLRA applicable not only to employers and unions, but also to individual workers." General Counsel Meisburg continued this program through the end his tenure and the Agency has remained committed to it since his departure.

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1 Outreach to Promote Broader Awareness of the Act, Memorandum OM 06-66, May 11, 2006.
3 Id. (emphasis added).
4 See PAR 2008 and 2009.
In 2011, the Agency recognized that new advancements in technology and communications required renewed focus on informing employers and employees about their rights and responsibilities related to protected concerted activity. At the time, Acting General Counsel Solomon noted that "[r]ecent developments in the Office of the General Counsel have presented emerging issues concerning the protected and/or concerted nature of employees' Facebook and Twitter and postings, the coercive impact of a union's Facebook and YouTube postings, and the lawfulness of employers' social media policies and rules."\(^5\) The Office of the General Counsel continued to report on the issue\(^6\) and, in March of this year, Chairman Pearce directed his staff to develop a webpage to explain protected concerted activity in way that is more accessible to employers and employees. The webpage will be completed within a month. In addition, the Agency has continued the outreach initiative begun by former General Counsel Meisburg.

For your convenience, we have enclosed a number of documents that outline the origins and history of our efforts to inform the public about their rights and responsibilities under the Act to engage in protected concerted activity. Please do not hesitate to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at (202) 273-3700 if you would like additional assistance regarding this matter.

Sincerely,

William B. Cowen
Solicitor

cc: The Honorable George Miller, Ranking Member, House Committee on Education and the Workforce

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\(^5\) Report of the Acting General Counsel Concerning Social Media Cases, Memorandum Om 11-74, August 18, 2011.

\(^6\) Report of the Acting General Counsel Concerning Social Media Cases, Memorandum Om 12-31, January 24, 2012.
April 11, 2012

The Honorable John Kline, Chairman
Committee on Education and the Workforce
House of Representatives
2181 Rayburn House Office Building
Washington, DC 20515-8100

Dear Chairman Kline:

Thank you for your interest in the Office of the General Counsel's (OGC's) proposed pilot program to reorganize Regions 14, 17, 25 and Subregion 33. I appreciate the opportunity to discuss this proposal.

In March of last year, I testified before the Labor, HHS Subcommittee of the House Committee on Appropriations. During that hearing, I assured the Committee that the OGC is committed to adjusting to the realities of declining national case intake and budget uncertainty. One month later, the National Labor Relations Board's Office of Inspector General issued an audit report that included relevant data and recommendations. Since that time, I have directed my staff to seek out long-term, national solutions that guarantee efficient use of agency resources and continued exemplary service to the public.

The proposed pilot program to reorganize Regions 14, 17, 25 and Subregion 33 is designed to test the effects of consolidation on some of our offices. Among our goals is to equalize office sizes in order to move towards a model where case intake in one office is more consistent with case intake in others. To that end, we have proposed a pilot program for consolidation of our St. Louis office, exclusive of our Peoria Subregional Office, with our Kansas City Regional Office, inclusive of the Tulsa Resident Office. During the proposed pilot, the Peoria Subregional Office would be consolidated with our Indianapolis Regional Office.

Should the pilot proceed, the top management structure for Regions 14 and 17 will be combined under the sitting Director of Region 17, and the responsibility for oversight of Subregion 33, Peoria, will be assumed by the sitting Director of Region 25, Indianapolis. Please be assured that the proposed restructuring pilot does not carry with it a final decision that either Region 17, Kansas City, or Region 14, St. Louis, will be the ultimate home of a sitting Regional Director. Rather, the proposed pilot merely affords the Agency the opportunity to assess the performance of a combined Regional Office.
Likewise, there is no plan to close any Regional, Subregional or Resident Office under the proposed pilot. Rather, the proposed pilot is designed to provide insight into ways to minimize any anticipated and unanticipated obstacles resulting from restructuring that would tend to interfere with each office's case handling effectiveness. It is expected that the Regional Director's goal of regularly travelling between offices and the Agency's significant technological accomplishments -- including the Federal Government's leading legal case management system -- will allow all offices to remain efficient, responsive organizations during the pilot period. Should the consolidation proceed, as with the pilot, there would be no plan to close any office.

Thus far, this office has received robust input from various stakeholders. In February, we announced the proposed pilot program to the Practice and Procedure Committee of the Section of Labor and Employment Law of the American Bar Association. As a result of that announcement, a group of practitioners in St. Louis, Missouri requested and received a telephone briefing by this office. Subsequently, a group of local union officials in Illinois requested and received a telephone briefing by this office. In addition to those briefings, this office has received letters from members of Congress and other members of the Illinois and Missouri communities. Those letters are enclosed.

I intend to make a decision as to whether to institute the pilot program within the next few days. I look forward to working with you on this Agency's efforts to achieve efficient use of our resources. Please do not hesitate to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at 202-273-3700 if you have additional questions regarding this matter.

Sincerely,

Lafe E. Solomon
Acting General Counsel

Enclosures

cc: The Honorable George Miller, Ranking Minority Member
    Committee on Education and the Workforce
March 16, 2012

The Honorable Claire McCaskill
Chairman
The Honorable Rob Portman
Ranking Member
Subcommittee on Contracting Oversight
U.S. Senate Committee on Homeland Security & Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC, 20510

Chairman McCaskill and Ranking Member Portman,

This is in response to your letter dated February 28, 2012, to National Labor Relations Board Chairman Mark G. Pearce seeking information regarding the National Labor Relations Board's contracts for "the acquisition of public relations, publicity, advertising, communications, or similar services."

As an initial matter, it should be noted that the Agency does not routinely retain outside services for the purpose of external communications or other public relations services. While there have been limited exceptions to this practice over the years, such exceptions are rare and typically address a discrete event. In this regard, enclosed please find a spreadsheet with information about contracts that may be responsive to your request. As you can see, Agency expenditures in this area are minimal.

If you have further questions or need further assistance, please feel free to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at 202-273-1070.

Sincerely,

William B. Cowen
Solicitor
March 20, 2012

The Honorable John Kline, Chairman
U.S. House Committee on Education and the Workforce
The Honorable Phil Roe, M.D.
Chairman, Subcommittee on Health, Employment,
Labor, and Pensions
2181 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Kline and Chairman Roe:

Please find enclosed a CD containing mostly unredacted emails responsive to the Committee’s January 6, 2012 request for information. The redactions made in this production include material that is personal privacy information. Aside from those redactions, the Committee is receiving some information that is not being disclosed to the public pursuant to FOIA.

Please do not hesitate to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at (202) 273-3700 if you would like additional assistance regarding this matter.

Sincerely,

William B. Cowen
Solicitor

Enclosures

cc: The Honorable George Miller, Ranking Minority Member Committee on Education and the Workforce
February 13, 2012

The Honorable Darrell Issa, Chairman
U.S. House Committee on Oversight and Government Reform
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Issa:

This is in response to your letter dated January 30, 2012, to National Labor Relations Board Chairman Mark G. Pearce, regarding work done by the National Labor Relations Board (Board) after the Supreme Court decision in New Process Steel, L.P. v. NLRB, 130 S. Ct. 2635 (2010).

From January 2008 to March 2010, the Board operated with three of its five seats vacant. The two remaining members – Wilma Liebman, a Democrat, and Peter Schaumber, a Republican – issued 595 decisions in cases where they could agree, setting aside the rest of the cases to be decided once additional Board Members were seated. In March 2010, President Obama announced the recess appointments of Mark Pearce and Craig Becker and they took office in April. Member Pearce and Brian Hayes, a new nominee, were confirmed by the Senate on June 22, 2010. Member Schaumber left the Board at the end of August 2010 when his term expired, and Chairman Liebman left the Board at the end of her term in August 2011.

On June 17, 2010, the United States Supreme Court issued its decision in New Process, holding that under Section 3(b) of the Act, in order to exercise the delegated authority of the Board, a delegate group of at least three members must be maintained. At that time, 102 of the 595 two-member decisions were pending review before the U.S. Courts of Appeals or the U.S. Supreme Court. After the New Process decision, those 102 decisions were returned to the Board for further proceedings in light of New Process. In addition, the Acting General Counsel submitted four other cases to the Board for further proceedings in light of New Process.

The Board did not hire additional staff for the purpose of processing the 106 returned cases. Board staff worked on those 106 cases, along with other cases pending before the Board, in their normal course of employment. The work done on
those 106 cases during the two-member Board period was available to the Board when it considered the cases after New Process.

All but one of the 106 returned cases have now been decided by the Board and are fully precedential. In the great majority of the cases, the Board reached the same outcome as that reached by the two-member Board. In some cases, the Board modified or elaborated on the rationale of the decision issued by the two-member Board. In other cases, the Board updated the remedies ordered by the two-member Board. Attached is an accounting of all 106 returned cases, including information about the status of each case and whether the two-member decision was modified by the Board.

In addition to processing the 106 returned cases, in July 2010, the Board ratified all personnel, administrative, and procurement actions taken by the two Members during the 27-month period. This action did not require the Board to replicate any work that had been done by the two-Member Board.

The vast majority of the 595 decisions issued by the two-member Board did not return to the Board after New Process and therefore required no additional action or work that had to be replicated by Board Members or employees. Although decided by only two members, those cases continue to support the pre-existing precedent upon which they were based.

With respect to your request for documents “referring or relating to the recess appointments of Sharon Block, Terence Flynn, and Richard Griffin to the NLRB,” please note that the Board was not consulted regarding the President’s decision whether to make these appointments. The Chairman was made aware that the President intended to make the appointments shortly before they occurred. We are in the process of collecting documents that may be within the scope of your request. We will provide documents to you once we identify and review them. As you may be aware, there is a pending Freedom of Information Act request on this topic that we are now processing, and we will make sure that any documents produced in response to that request are also made available to you.

Please be advised that the validity of the recess appointments has been raised in several matters now before the Board or the federal courts. As you may know, the U.S. Department of Justice will represent the U.S. Government in the federal courts with respect to the constitutionality of the appointments to the Board. The Board and the Department of Justice have a strong interest in protecting the confidentiality of materials related to those ongoing proceedings.
If you have any questions or need further assistance, please feel free to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at (202) 273-1700.

Sincerely,

William B. Cowen
Solicitor

Enclosures

cc: The Honorable Elijah E. Cummings, Ranking Minority Member Committee on Oversight and Government Reform
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<td>Goffstown Truck Center, Inc.</td>
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<tr>
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<td>SFO Good-Nite Inn, LLC</td>
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<tr>
<td>Sheehy Enterprises, Inc.</td>
<td>25-CA-30583</td>
<td>353 NLRB No. 84</td>
<td>Sheehy Enterprises, Inc. v. NLRB</td>
<td>7th Cir</td>
<td>09-1383; 09-1656</td>
<td>355 NLRB No. 83</td>
<td>Same outcome</td>
</tr>
<tr>
<td>Shore Acres Rehabilitation and Nursing Center, LLC</td>
<td>12-CA-25654</td>
<td>352 NLRB No. 106</td>
<td>Snell Island SNF LLC v. NLRB</td>
<td>2nd Cir</td>
<td>09-328 (SCI)</td>
<td>356 NLRB No. 24</td>
<td>Same outcome</td>
</tr>
<tr>
<td>Southern Power Company</td>
<td>10-CA-37348</td>
<td>353 NLRB No. 116</td>
<td>Southern Power Co. v. NLRB</td>
<td>DC Cir</td>
<td>09-1116; 09-1129</td>
<td>356 NLRB No. 43</td>
<td>Same outcome (updated remedy)</td>
</tr>
<tr>
<td>SPE Utility Contractors, LLC</td>
<td>07-CA-50767</td>
<td>353 NLRB No. 123</td>
<td>SPE Utility Contractors, LLC v. NLRB</td>
<td>6th Cir</td>
<td>09-1692; 09-1730</td>
<td>355 NLRB No. 60</td>
<td>Same outcome</td>
</tr>
<tr>
<td>Spectrum Health</td>
<td>07-CA-50996</td>
<td>353 NLRB No. 99</td>
<td>Spectrum Health-Kent Community College v. NLRB</td>
<td>DC Cir</td>
<td>09-1122; 09-1181</td>
<td>355 NLRB No. 101</td>
<td>Same outcome</td>
</tr>
<tr>
<td>Spurlino Materials, LLC</td>
<td>25-CA-30053</td>
<td>353 NLRB No. 125</td>
<td>NLRB v. Spurlino Mat'l's, LLC</td>
<td>7th Cir</td>
<td>09-2426</td>
<td>355 NLRB No. 77</td>
<td>Same outcome</td>
</tr>
<tr>
<td>St. George Warehouse</td>
<td>22-CA-23223</td>
<td>353 NLRB No. 50</td>
<td>St. George Warehouse, Inc. v. NLRB</td>
<td>3rd Cir</td>
<td>08-4875; 09-1269</td>
<td>355 NLRB No. 81</td>
<td>Same outcome</td>
</tr>
<tr>
<td>Stagehands Referral Service</td>
<td>34-CA-10971</td>
<td>354 NLRB No. 7</td>
<td>IATSE Local 84 v. NLRB</td>
<td>DC Cir</td>
<td>09-1158; 09-1197</td>
<td>356 NLRB No. 152</td>
<td>Same outcome</td>
</tr>
<tr>
<td>Starbucks Coffee Co.</td>
<td>02-CA-37548</td>
<td>354 NLRB No. 99</td>
<td>Starbucks Corp v. NLRB</td>
<td>DC Cir</td>
<td>09-1273; 09-1295</td>
<td>355 NLRB No. 135</td>
<td>Same outcome</td>
</tr>
<tr>
<td>Talmadge Park</td>
<td>34-CA-12209</td>
<td>352 NLRB No. 90</td>
<td>NLRB v. Talmadge Park</td>
<td>2nd Cir</td>
<td>09-2601-ag</td>
<td>Unpublished Decision and Order (8/25/2010)</td>
<td>Same outcome</td>
</tr>
<tr>
<td>Teamsters Local 886 (United Parcel Service)</td>
<td>17-CB-06356</td>
<td>354 NLRB No. 52</td>
<td>Teamsters Local 886 v. NLRB</td>
<td>DC Cir</td>
<td>09-1214; 09-1239</td>
<td>355 NLRB No. 105</td>
<td>Same outcome</td>
</tr>
<tr>
<td>The Continental Group</td>
<td>12-CA-24045</td>
<td>353 NLRB No. 31</td>
<td>The Continental Group v. NLRB</td>
<td>DC Cir</td>
<td>08-1328; 08-1359</td>
<td>357 NLRB No. 39</td>
<td>Same outcome (with further elaboration)</td>
</tr>
<tr>
<td>Transportation Solutions, Inc.</td>
<td>06-CA-36628</td>
<td>355 NLRB No. 2</td>
<td>NLRB v. Transportation Solutions, Inc.</td>
<td>3rd Cir</td>
<td>10-2326</td>
<td>355 NLRB No. 142</td>
<td>Same outcome</td>
</tr>
<tr>
<td>Trump Marina Casino Resort</td>
<td>04-CA-36528</td>
<td>354 NLRB No. 123</td>
<td>Trump Marina Assoc's, LLC v. NLRB</td>
<td>DC Cir</td>
<td>10-1012; 10-1015</td>
<td>355 NLRB No. 107</td>
<td>Same outcome</td>
</tr>
<tr>
<td>Trump Marina Hotel Casino</td>
<td>04-CA-35334</td>
<td>353 NLRB No. 93</td>
<td>Trump Marina Assoc's, LLC v. NLRB</td>
<td>DC Cir</td>
<td>09-1097; 09-1107</td>
<td>355 NLRB No. 208</td>
<td>Same outcome</td>
</tr>
<tr>
<td>Trump Plaza Hotel and Casino</td>
<td>04-CA-36217; 04-RC-21263</td>
<td>352 NLRB No. 148; 352 NLRB No. 76</td>
<td>Trump Plaza Assoc's v. NLRB</td>
<td>DC Cir</td>
<td>08-1304; 08-1340</td>
<td>355 NLRB No. 202</td>
<td>Same outcome (with modified description of facts)</td>
</tr>
<tr>
<td>Union-Tribune Publishing Co.</td>
<td>21-CA-37535</td>
<td>353 NLRB No. 2</td>
<td>Graphic Communications Conference Local 432(M), Teamsters v. NLRB (Union-Tribune)</td>
<td>DC Cir</td>
<td>08-1321</td>
<td>356 NLRB No. 77</td>
<td>Same outcome (updated remedy)</td>
</tr>
<tr>
<td>Case Name</td>
<td>Case No.</td>
<td>Two-Member Decision</td>
<td>Case Name in Circuit</td>
<td>Circuit</td>
<td>Case No. in Circuit</td>
<td>New Board Decision</td>
<td>Comment</td>
</tr>
<tr>
<td>---------------------------</td>
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<tr>
<td>Venetian Casino Resort, LLC</td>
<td>28-CA-16000</td>
<td>354 NLRB No. 9</td>
<td>Venetian Casino Resort, LLC v. NLRB</td>
<td>DC Cir</td>
<td>09-1154</td>
<td>355 NLRB No. 165</td>
<td>Same outcome as two-member decision as to two issues and severed one issue (355 NLRB No. 165); subsequently found violation that two-member decision had withdrawn (357 NLRB No. 147).</td>
</tr>
<tr>
<td>Wayneview Care Center</td>
<td>22-CA-26987</td>
<td>352 NLRB No. 129; 352 NLRB 1089</td>
<td>Wayneview Care Center v. NLRB</td>
<td>DC Cir</td>
<td>08-1307; 08-1348</td>
<td>356 NLRB No. 30</td>
<td>Same outcome (with additional explanation of rationale and updated remedial relief)</td>
</tr>
<tr>
<td>White Oak Manor</td>
<td>11-CA-21786</td>
<td>353 NLRB No. 83</td>
<td>White Oak Manor v. NLRB</td>
<td>DC Cir</td>
<td>09-1068; 09-1096</td>
<td>355 NLRB No. 211</td>
<td>Same outcome</td>
</tr>
<tr>
<td>Whitesell Corporation</td>
<td>18-CA-18143</td>
<td>352 NLRB No. 138; 352 NLRB 1196</td>
<td>NLRB v. Whitesell Corp.</td>
<td>8th Cir</td>
<td>08-3291</td>
<td>355 NLRB No. 134</td>
<td>Same outcome</td>
</tr>
<tr>
<td>Windstream Corporation</td>
<td>06-CA-35290</td>
<td>352 NLRB No. 9; 352 NLRB 44</td>
<td>NLRB v. Windstream Corp.</td>
<td>3rd Cir</td>
<td>09-2207; 09-2394; 09-2208; 09-2395</td>
<td>355 NLRB No. 74</td>
<td>Same outcome</td>
</tr>
<tr>
<td>Windstream Corporation</td>
<td>06-CA-35483</td>
<td>352 NLRB No. 68; 352 NLRB 510</td>
<td>NLRB v. Windstream Corp.</td>
<td>3rd Cir</td>
<td>09-2207; 09-2394; 09-2208; 09-2395</td>
<td>355 NLRB No. 119</td>
<td>Same outcome</td>
</tr>
</tbody>
</table>
January 20, 2012

The Honorable John Kline, Chairman
U.S. House Committee on Education and the Workforce
The Honorable Phil Roe, M.D.
Chairman, Subcommittee on Health, Employment,
Labor, and Pensions
2181 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Kline and Chairman Roe:

This is in response to your letter dated January 6, 2012, to National Labor Relations Board Chairman Mark G. Pearce, regarding the appointment of Sharon Block, Terence Flynn, and Richard Griffin to the National Labor Relations Board (Board).

Your letter expresses an interest in understanding the new Members' qualifications and background and requests "every document drafted in whole or in part" by the new Members during their time of employment at the Board. The number of documents that is potentially responsive to this request is enormous and includes primarily deliberative, pre-decisional documents generated, cumulatively, during approximately 16 years of employment over the past 30 years. The time period of the request includes periods where documents were not routinely maintained in electronic form and, indeed, many of these documents may be no longer in existence.

The Board treats deliberative, pre-decisional documents and communications with the highest level of confidentiality, and has previously declined to produce such documents. Many draft documents are known to and have been seen by only their authors and immediate supervisors. Documents that are ultimately presented to an individual Board Member are rarely shared with other staff members not directly involved in the consideration of the case. Similarly, communications between Board Members generally are not shared beyond those involved in the immediate distribution of that communication, and it is very rare for any deliberative, pre-decisional communication to be distributed more broadly than those persons directly involved in the consideration of the case. Moreover, our information technology systems are built with security controls that protect the confidentiality of deliberative, pre-decisional materials. In short, at the Board, nothing is more confidential than these materials.
While Board Members may, from time to time, speak about the deliberative process generally, it is a long-standing tradition that they do not publically reveal the deliberations on any particular case. Whether Republican, Democrat, or Independent, Board Members have adhered to these principles because they recognize that the Board can function effectively only in an environment where the free flow of ideas is not compromised by the fear of public disclosure of private communications.

The Board remains willing to work with the Committee to accommodate its legitimate oversight needs. In that regard, please feel free to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at (202) 273-1700, to discuss this matter further.

Sincerely,

William B. Cowen
Solicitor

cc: The Honorable George Miller, Ranking Member,
House Committee on Education and the Workforce
December 5, 2012

The Honorable Darrell Issa, Chairman
Committee on Oversight and Government Reform
House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515-6143

Dear Chairman Issa:

This letter serves as my continuing response to the subpoena served on the National Labor Relations Board, Office of the General Counsel on August 7, 2011. In that regard, I am enclosing a CD containing mostly unredacted emails responsive to that subpoena. In addition, I am enclosing documents that are being produced to a Freedom of Information Act requester as a courtesy. The redactions made to subpoena responsive documents include material that is not germane to the request or is personal privacy information. Aside from those redactions, the Committee is receiving information that is not being disclosed to the public pursuant to FOIA.

This office will continue to provide documents to the Committee on a rolling basis as the collection and review process described in our September 9, 2011 letter proceeds. Please do not hesitate to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at (202) 273-3700 if you would like additional assistance regarding this matter.

Sincerely,

Lafe E. Solomon
Acting General Counsel

Enclosures

cc: The Honorable Elijah E. Cummings, Ranking Minority Member
Committee on Oversight and Government Reform
December 5, 2012

The Honorable John Kline, Chairman
Committee on Education and the Workforce
House of Representatives
2181 Rayburn House Office Building
Washington, DC 20515-8100

The Honorable Phil Roe, Chairman
Subcommittee on Health, Employment, Labor and Pensions
Committee on Education and the Workforce
House of Representatives
2181 Rayburn House Office Building
Washington, DC 20515-8100

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Acting General Counsel

Enclosures

cc: The Honorable George Miller, Ranking Minority Member
Committee on Education and the Workforce
November 8, 2012

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Washington, DC 20515-6100

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Sincerely,

[Signature]

Lael E. Solomon
Acting General Counsel

Enclosures

cc: The Honorable George Miller, Ranking Minority Member
Committee on Education and the Workforce
October 12, 2012

The Honorable Darrell Issa, Chairman
Committee on Oversight and Government Reform
House of Representatives
2157 Rayburn House Office Building
Washington, DC  20515-6143

Dear Chairman Issa:

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[Laf e E. Solomon]
Acting General Counsel

Enclosures

cc: The Honorable George Miller, Ranking Minority Member
Committee on Education and the Workforce
September 18, 2012

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House of Representatives
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September 18, 2012

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House of Representatives
2181 Rayburn House Office Building
Washington, DC 20515-6100

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Enclosures

cc: The Honorable George Miller, Ranking Minority Member
Committee on Education and the Workforce
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Enclosures

cc: The Honorable George Miller, Ranking Minority Member Committee on Education and the Workforce
July 16, 2012

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June 18, 2012

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House of Representatives
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Committee on Education and the Workforce
June 18, 2012

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Committee on Education and the Workforce  
House of Representatives  
2181 Rayburn House Office Building  
Washington, DC 20515-8100

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Washington, DC 20515-8100

Dear Chairman Kline and Chairman Roe:

Today, in response to your December 18, 2011 request for additional information about the Boeing case, I have enclosed a CD containing mostly unredacted emails responsive to that request. I provide these communications in order to supplement my December 20, 2011 letter explaining the legal and factual basis of the complaint, and the multitude of documents already provided to the Committee germane to those matters.

The redactions made in this production include material that is not germane to the request or is personal privacy information. Aside from those redactions, the Committee is receiving information that is not being disclosed to the public pursuant to FOIA. As described in my December 20, 2011 letter, this office will continue to provide responsive documents to the committee on a rolling basis as the collection and review process continues.

Please do not hesitate to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at 202-273-3700 if you would like additional assistance regarding this matter.

Sincerely,

[Signature]

Late E. Solomon  
Acting General Counsel

Enclosures

cc: The Honorable George Miller, Ranking Minority Member  
Committee on Education and the Workforce
June 18, 2012

The Honorable John Kline, Chairman
Committee on Education and the Workforce
House of Representatives
2181 Rayburn House Office Building
Washington, DC 20515-6100

The Honorable Phil Roe, Chairman
Subcommittee on Health, Employment, Labor and Pensions
Committee on Education and the Workforce
House of Representatives
2181 Rayburn House Office Building
Washington, DC 20515-6100

Dear Chairman Kline and Chairman Roe:

Today, in response to your December 16, 2011 request for additional information about the Boeing case, I have enclosed a CD containing mostly unredacted emails responsive to that request. I provide these communications in order to supplement my December 20, 2011 letter explaining the legal and factual basis of the complaint, and the multitude of documents already provided to the Committee germane to those matters.

The redactions made in this production include material that is not germane to the request or is personal privacy information. Aside from those redactions, the Committee is receiving information that is not being disclosed to the public pursuant to FOIA. As described in my December 20, 2011 letter, this office will continue to provide responsive documents to the committee on a rolling basis as the collection and review process continues.

Please do not hesitate to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at 202-273-3700 if you would like additional assistance regarding this matter.

Sincerely,

[Signature]

Lafe E. Solomon
Acting General Counsel

Enclosures

cc: The Honorable George Miller, Ranking Minority Member
Committee on Education and the Workforce
The Honorable John Kline, Chairman  
Committee on Education and the Workforce  
House of Representatives  
2181 Rayburn House Office Building  
Washington, DC  20515-6100  

Dear Chairman Kline:  

I write in response to your May 17, 2012 letter regarding the federal court litigation of the National Labor Relations Board's (NLRB's) notice poster rule. Currently, an appeal is pending before the U.S. Court of Appeals for the District of Columbia. As you may know, the D.C. Circuit has set a briefing schedule and the NLRB's brief is due at the end of June. Although the NLRB has publicly stated its intent to appeal the decision of the South Carolina district court, the notice of appeal has not yet been filed and there is no briefing schedule set in the U.S. Court of Appeals for the Fourth Circuit.

With respect to your question regarding how the NLRB would enforce the regulation nationwide "in the event federal circuits take conflicting views on the legality of the regulation," that would depend on what issues are resolved by those circuit court decisions and the nature of the conflicts that remain. Until the circuit courts have issued their rulings, and it has become clear whether any potential split in the circuits will be reviewed by the Supreme Court, it is impossible to say how it would be appropriate for the NLRB to proceed in conformity with those entirely hypothetical opinions at present.

Until this matter has been finally resolved by the courts, I have instructed my staff to keep Committee staff up to date on the progress of the litigation. Please do not hesitate to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at 202-273-3700 if you would like additional assistance regarding this matter.

Sincerely,

[Signature]

Lafe E. Solomon  
Acting General Counsel

cc:  The Honorable George Miller, Ranking Minority Member  
Committee on Education and the Workforce
Dear Acting General Counsel Solomon:

Last year, 35 House Members and I filed amicus briefs in the District of Columbia and South Carolina federal courts opposing the National Labor Relations Board’s (NLRB) regulation requiring employers to post a vague and biased general notice of employee rights under the National Labor Relations Act (NLRA). The disposition of this final rule continues to be a priority for the committee. Therefore, I respectfully request that you describe the NLRB’s position on nationwide enforcement of a regulation in the event of a split in the federal circuits.

On August 30, 2011, the NLRB issued a final rule requiring almost all private employers to post a vague and biased general notice of employee rights under the NLRA in the workplace. Following issuance of the final rule, believing the NLRB lacked authority to mandate the postings, interested parties filed suits in the District of Columbia and South Carolina federal courts.

On March 2, 2012, the U.S. District Court for the District of Columbia held that the NLRB had authority to require covered employers to post a general notice of employee rights under the NLRA, but failure to post was not automatically an unfair labor practice nor did it automatically toll the statute of limitations. In contrast, on April 13, 2012, the U.S. District Court for the District of South Carolina held that the NLRB lacked statutory authority to require covered employers to post a general notice of employee rights under the NLRA. Both decisions have been appealed.

1 Final Rule, 76 FR 54042 (August 30, 2011).
I hope you agree that conflicting decisions in federal circuits regarding employer obligations can create confusion and uncertainty for the nation's job creators. A nationwide injunction by the U.S. Court of Appeals for the District of Columbia has temporarily blocked enforcement of the regulation pending appeal, but there is a real possibility of conflicting rulings in the future.\(^4\) While I continue to believe this NLRB regulatory overreach should be withdrawn in its entirety, the NLRB has a responsibility to ensure employers understand their obligations regarding the posting of the general notice of employee rights under the NLRA in the future. Toward that end, please describe how the NLRB plans to enforce the poster regulation nationwide in the event federal circuits take conflicting views on the legality of the regulation. Please provide your description by May 31, 2012.

If you have any questions regarding this request, please contact Marvin Kaplan, House Committee on Education and the Workforce, at (202) 225-7101.

Sincerely,

[Signature]

JOHN KLINE
Chairman
Committee on Education and the Workforce

cc: The Honorable George Miller, Senior Democratic Member, Committee on Education and the Workforce

---

May 4, 2012

The Honorable John Kline, Chairman
Committee on Education and the Workforce
House of Representatives
2181 Rayburn House Office Building
Washington, DC 20515-6100

The Honorable Phil Roe, Chairman
Subcommittee on Health, Employment, Labor and Pensions
Committee on Education and the Workforce
House of Representatives
2181 Rayburn House Office Building
Washington, DC 20515-6100

Dear Chairman Kline and Chairman Roe:

Today, in response to your December 16, 2011 request for additional information about the Boeing case, I have enclosed a CD containing mostly unredacted emails responsive to that request. I provide these communications in order to supplement my December 20, 2011 letter explaining the legal and factual basis of the complaint, and the multitude of documents already provided to the Committee germane to those matters.

The redactions made in this production include material that is not germane to the request or is personal privacy information. Aside from those redactions, the Committee is receiving information that is not being disclosed to the public pursuant to FOIA. As described in my December 20, 2011 letter, this office will continue to provide responsive documents to the committee on a rolling basis as the collection and review process continues.

Please do not hesitate to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at 202-273-3700 if you would like additional assistance regarding this matter.

Sincerely,

[Signature]
Lafe E. Solomon
Acting General Counsel

Enclosures

cc: The Honorable George Miller, Ranking Minority Member
Committee on Education and the Workforce
May 4, 2012

The Honorable Darrell Issa, Chairman
Committee on Oversight and Government Reform
House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515-6143

Dear Chairman Issa:

This letter serves as my continuing response to the subpoena served on the National Labor Relations Board, Office of the General Counsel on August 7, 2011. In that regard, I am enclosing a CD containing mostly unredacted emails responsive to that subpoena. The redactions made in this production include material that is not germane to the request or is personal privacy information. Aside from those redactions, the Committee is receiving information that is not being disclosed to the public pursuant to FOIA.

This office will continue to provide documents to the Committee on a rolling basis as the collection and review process described in our September 9, 2011 letter proceeds. Please do not hesitate to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at (202) 273-3700 if you would like additional assistance regarding this matter.

Sincerely,

Lafe E. Solomon
Acting General Counsel

Enclosures

cc: The Honorable Elijah E. Cummings, Ranking Minority Member
Committee on Oversight and Government Reform
The Honorable Darrell Issa, Chairman
Committee on Oversight and Government Reform
House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Issa:


1. Please expand on any personal interest you have in Beck issues.

   My personal interest in Beck issues is not unlike my interest in other matters enumerated in Memorandum GC 11-11. It is, simply stated, to ensure that our statute is enforced. Since 1998, the Office of the General Counsel has consistently enforced the same policy with respect to Beck objectors. See, Memorandum GC 98-11, Guidelines Concerning Processing of Beck Cases, August 17, 1998. Over the last three years, cases involving Beck objectors have resulted in favorable Board decisions and workers have received offers of reinstatement, back pay, and dues and fees reimbursement totaling about $118,000.

2. How many alleged Beck violations are currently pending before the Office of the General Counsel? There are 118 alleged Beck violations currently pending in the Regional Offices of the Office of the General Counsel.

   a. How many alleged Beck violations have resulted in the issuance of a complaint? 17

   b. How many alleged Beck violations have resulted in the issuance of a settlement? 147

      i. What type of relief has been provided to workers who received a settlement? Workers, who have alleged Beck violations in addition to other violations of the Act, have received a cumulative total of about $118,000.00 in back pay and dues and fees reimbursement, and 9 workers were offered reinstatement. For more details see the enclosed chart.

   c. How many alleged Beck violations have been dismissed without the issuance of a complaint? Please explain the basis of each dismissal. 175. In fiscal year 2011, approximately 28% of all charges filed resulted in a settlement and approximately 6% of all charges filed resulted in the issuance of a complaint. Similar data for other fiscal years is available on the Agency's website at http://www.nlrb.gov/charges-and-complaints. Please see the enclosed chart to see a list of all closed cases. For all
The Honorable Darrell Issa
Page 2 of 4

cases dismissed on or after June 1, 2011, final dismissal letters should be posted on the Agency's website. Memorandum GC 11-12, Drafting and Redacting Agency Documents, April 29, 2011.

3. How many alleged Beck violations are pending before the Board? 3
   a. How many alleged Beck violations have been decided by the Board? 7
   b. How many of these cases have been decided in favor of the union? 1
   c. How many of these cases have been decided in favor of the worker? 6

4. What is the average amount of time it takes the Office of the General Counsel to process an alleged Beck violation — from the filing date to a final disposition? Please provide an accounting of each alleged Beck violation and the length of time it took for the charge to reach a final disposition. 89.7 days. See enclosed chart.
   a. How does the average amount of time it takes to process an alleged Beck violation compare to the average amount of time it takes to process other unfair labor practice charges? In fiscal year 2011, the Office of the General Counsel closed 72.5% of all C cases within 120 days. This data for other fiscal years can be found in the Agency's annual performance and accountability reports, which are available online at http://www.nlrb.gov/annual-reports.

5. What is the average amount of time it takes for the Board to issue a decision in an alleged Beck violation? Please provide an accounting of each alleged Beck violation decided by the Board and the length of time it took to render a decision. Please see enclosed chart.

6. Does the Office of the General Counsel maintain the policy outlined in a 1998 General Counsel Memorandum that an unfair labor charge alleging improper agency fee charge should be dismissed if the objecting party generally asserts that he has been improperly charged? The Office of the General Counsel maintains a policy in Beck cases, consistent with its policy with regard to other types of unfair labor practice allegations, that requires a charging party to present evidence and preliminary information which points to a prima facie case of a violation before the General Counsel will obtain and investigate the respondent's defense. NLRB Case Handling Manual, Unfair Labor Practices, Sec. 10054.4
   a. Does the Office of the General Counsel maintain the policy that a worker must "present evidence or ... give promising leads that would lead to evidence that would support [a Beck violation]?" Under the policy set forth in the answer above, a Beck objector must provide some evidence, or at least a promising lead of evidence, in support of an assertion that he or she is being unlawfully charged for a particular expenditure identified by the union as representational. Memorandum GC 98-11, Guidelines Concerning Processing of Beck Cases, August 17, 1998. If he or she does not provide some such evidence or a promising lead of such evidence, the charge will be dismissed. Further, a Beck objector can always challenge the union's Beck-objector fee through the internal challenge procedure that the union is legally required to maintain, and the burden is on the union to establish that the expenditure is related to representational activities. Evidence presented during this proceeding can be used in support of an unfair labor practice charge filed with our Agency.
b. How does the Office of the General Counsel define a "promising lead?" As set forth in the answer above, a "promising lead" is evidence or information which points to a prima facie case of a violation. Charging parties can meet this burden by presenting evidence or other information that some of the expenditures claimed as chargeable were for non-representational activities. If a charging party raises a question regarding the chargeability of a category of expenses that could potentially include non-representational matters (e.g., the cost of a union newsletter, which often address both non-representational and representational issues), the Office of the General Counsel would seek the union's explanation as to why those expenses were treated as representational and, if that explanation is not satisfactory, a complaint would issue.

c. How many cases have been dismissed by the Office of the General Counsel because a worker could not "present evidence" or a "promising lead" of an alleged Beck violation? 1

7. Does the Office of the General Counsel maintain the policy that "cases raising questions as to whether the charging party has met [the evidence burden] should be submitted to the Division of Advice?" Although Regional Offices were originally directed to submit these cases to the Division of Advice, there has been no such instruction in place since 2002. However, Regional Offices have the discretion to submit any case to the Division of Advice. Since January 20, 2009, there have been two such cases submitted.

a. If so, how many cases of alleged Beck violations has the Division of Advice determined to have met the burden? 1

b. How many cases of alleged Beck violations has the Division of Advice determined has not met the burden? 1

8. Does the Office of the General Counsel maintain the policy that the union must verify by an audit that the chargeable and non-chargeable expenditures were made? The Office of the General Counsel follows extant Board law, which requires that unions verify by an independent audit that the claimed chargeable and non-chargeable expenditures were made. See Television Artists AFTRA (KGW Radio), 327 NLRB 474 (1999).

9. How many cases have been referred to the Division of Advice concerning the "type and level of audits unions must give Beck objectors?" 1

a. What is the current status of such cases? The Division of Advice authorized complaint and the case is pending.

b. How many resulted in the issuance of a complaint? 1

c. How many have been dismissed? 0

d. How many are pending before the Board? 0

10. How many cases have been referred to the Division of Advice that concern "whether Beck objectors are entitled to audits along with the notice of their Beck rights?" 0

a. What is the current status of such cases? N/A
b. How many resulted in the issuance of complaint? N/A

c. How many have been dismissed? N/A

d. How many are pending before the Board? N/A

11. Did you participate in advising the Board in its issuance of the "Employees Rights Under the National Labor Relations Act" poster rule? If so did you advise the Board they should consider including in the notice notification of a workers' Beck rights under the National Labor Relations Act in the poster? If not, why not? No, I did not participate in advising the Board in its issuance of the "Employees Rights Under the National Labor Relations Act" poster rule.

Please do not hesitate to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at (202) 273-3700 if you would like additional assistance regarding this matter.

Sincerely,

[Signature]

Late E. Solomon
Acting General Counsel

Enclosures

cc: The Honorable Elijah E. Cummings, Ranking Minority Member Committee on Oversight and Government Reform
Mr. Lafe Solomon  
Acting General Counsel  
National Labor Relations Board  
1099 14th Street, NW  
Washington, DC 20570-0001

April 4, 2011

Dear Mr. Solomon:

The House Committee on Oversight and Government Reform is examining the use of union dues and fees to fund political causes contrary to the will of many union workers. On February 8, 2012, the Committee held a hearing entitled, “The Right to Choose: Protecting Union Workers from Forced Political Contributions,” that featured three union workers who testified that their rights are being violated by the use of their dues to support political activity. The full hearing video and testimony of all of the witnesses are available at http://issues.oversight.house.gov/worker-rights. I write to request additional information to further inform the Committee in its oversight of these issues.

It is indisputable that union political speech is subject to First Amendment protections; however, the First Amendment also protects against compelled speech of union workers. Indeed, the U.S. Supreme Court has long recognized that constitutional and statutory protections exist to protect a limited number of union workers from forced political contributions. In a significant victory for these union workers, the Supreme Court held in Communications Workers of America et al. v. Beck et al., that the National Labor Relations Act does not allow a union, over the objection of dues-paying nonmember workers, to spend fees on activities unrelated to collective bargaining and other representational activities. Subsequent to this decision, the National Labor Relations Board (NLRB) mandated that unions abide by limited notification procedures to inform a union worker of their Beck rights and to object to non-representational expenditures by the union.

3 See, California Saw, 320 NLRB 224, 233 (1995), enf'd 133 F.3d 1012 (7th Cir. 1998).
Nevertheless, worker rights advocates have expressed concern that significant
government and union-imposed barriers remain for workers to exercise their rights. 4 Federal
notification requirements have been rolled back under the Obama Administration, and Terry
Bowman, a “proud” UAW member, testified at the hearing that he believes the UAW places only
a “small paragraph” in its Solidarity Magazine just once a year to notify its workers about their
Beck rights. 5 Further, it appears that the UAW requires that Beck objections must be renewed
each year. 6 Disturbingly, Mr. Bowman explained that “workers who [do] exercise their Beck
rights are frequently the victims of humiliation, persecution and harassment on the job for
resigning their union membership, and union officials do nothing to stop or even discourage this
intimidating tactic.” 7

It appears that “Beck issues” are a “policy issue in which [you are] particularly
interested.” 8 In light of this interest, and to assist the Committee in its examination of these
issues, I request that you answer the following questions and provide relevant documents to
substantiate your responses from the time period January 20, 2009, to present. A response is
requested by April 18, 2012. For the purpose of the questions, an alleged “Beck violation” is
defined as the collection of union fees as a condition of employment in excess of what is
permitted under the Supreme Court’s decision in Communications Workers v. Beck or without
providing one or more of the procedural protections required under Beck as applied by the courts
and the Board.

1. Please expand on any personal interest you have in Beck issues.

2. How many alleged Beck violations are currently pending before the Office of General
   Counsel?
   a. How many alleged Beck violations have resulted in the issuance of a complaint?
   b. How many alleged Beck violations have resulted in a settlement?
      i. What type of relief has been provided to workers who received a settlement?
   c. How many alleged Beck violations have been dismissed without the issuance of a
      complaint? Please explain the basis for each dismissal.

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4 Raymond J. LaJeunesse, Jr., Esq, Workers’ Experiences in Attempting to Exercise Their Rights Under
5 The Right to Choose: Protecting Union Workers from Forced Political Contributions: Hearing Before the H.
6 See UAW About, “Notice to persons covered by union security agreements regulated under National Labor
   under-national-labor-relations-act (last visited March 8, 2012)
7 The Right to Choose: Protecting Union Workers from Forced Political Contributions: Hearing Before the H.
8 Memorandum GC 11-11, Office of the General Counsel, Mandatory Submissions to Advice, Apr. 12, 2011.
3. How many alleged *Beck* violations are pending before the Board?
   a. How many alleged *Beck* violations have been decided by the Board?
   b. How many of these cases have been decided in favor of the union?
   c. How many of these cases have been decided in favor of the worker?

4. What is the average amount of time it takes the Office of General Counsel to process an alleged *Beck* violation—from the filing date to a final disposition? Please provide an accounting of each alleged *Beck* violation and the length of time it took for the charge to reach a final disposition.
   a. How does the average amount of time it takes to process an alleged *Beck* violation compare to the average amount of time it takes to process other unfair labor practice charges?

5. What is the average amount of time it takes for the Board to issue a decision in an alleged *Beck* violation? Please provide an accounting of each alleged *Beck* violation decided by the Board and the length of time it took to render a decision.

6. Does the Office of General Counsel maintain the policy outlined in a 1998 General Counsel Memorandum that “an unfair labor charge alleging improper agency fee charges should be dismissed if the objecting party generally asserts that he has been improperly charged?”
   a. Does the Office of General Counsel maintain the policy that a worker must “present evidence or ... give promising leads that would lead to evidence that would support [a *Beck* violation]?”
   b. How does the Office of General Counsel define a “promising lead?”
   c. How many cases have been dismissed by Office of General Counsel because a worker could not “present evidence” or a “promising lead” of an alleged *Beck* violation?

7. Does the Office of General Counsel maintain the policy that “cases raising questions as to whether the charging party has met [the evidence burden] should be submitted to the Division of Advice?”
   a. If so, how many cases of alleged *Beck* violations has the Division of Advice determined to have met the burden?

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10 Id.
11 Id.
b. How many cases of alleged Beck violations has the Division of Advice determined has not met the burden?

8. Does the Office of General Counsel maintain the policy that the union must verify by an audit that the chargeable and non chargeable expenditures claimed were made?

9. How many cases have been referred to the Division of Advice concerning "the type and level of audits unions must give Beck objectors?"12

   a. What is the current status of such cases?
   b. How many have resulted in the issuance a complaint?
   c. How many have been dismissed?
   d. How many are pending before the Board?

10. How many cases have been referred to the Division of Advice that concern "whether Beck objectors are entitled to audits along with the notice of their Beck rights?"13

   a. What is the current status of such cases?
   b. How many resulted in the issuance of a complaint?
   c. How many have been dismissed?
   d. How many are pending before the Board?

11. Did you participate in advising the Board in its issuance of the "Employee Rights Under the National Labor Relations Act" poster rule?14 If so, did you advise the Board that they should consider including in the notice notification of a workers' Beck rights under the National Labor Relations Act in the poster? If not, why not?

   In preparing your answers to these questions, please answer each question individually and include the text of each question with your response. When producing documents to the Committee, please deliver production sets to the Majority Staff in room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

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12 Memorandum GC 11-11, Office of the General Counsel, Mandatory Submissions to Advice, Apr. 12, 2011.
13 Id.
Mr. Lafe Solomon  
April 4, 2012  
Page 5 of 5

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at “any time” investigate “any matter” as set forth in House Rule X. An attachment to this letter provides additional information about responding to the Committee’s request.

If you have any questions about this request, please contact the Committee at 202-225-5074. Thank you for your attention to this matter.

Sincerely,

Darrell Issa  
Chairman

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Minority Member
Responding to Committee Document Requests

1. In complying with this request, you should produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.

2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.

3. The Committee’s preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.

4. Documents produced in electronic format should also be organized, identified, and indexed electronically.

5. Electronic document productions should be prepared according to the following standards:

(a) The production should consist of single page Tagged Image File (“TIF”), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.

(b) Document numbers in the load file should match document Bates numbers and TIF file names.

(c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when they were requested.

8. When you produce documents, you should identify the paragraph in the Committee’s request to which the documents respond.

9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.

10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.

11. If compliance with the request cannot be made in full, compliance shall be made to the extent possible and shall include an explanation of why full compliance is not possible.

12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.

13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.

14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

15. The time period covered by this request is included in the attached request. To the extent a time period is not specified, produce relevant documents from January 1, 2009 to the present.

16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.
17. All documents shall be Bates-stamped sequentially and produced sequentially.

18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 247 of the Rayburn House Office Building.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email, regular mail, telexes, releases, or otherwise.

3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might
otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

4. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.

6. The term "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
April 11, 2012

The Honorable John Kline, Chairman
Committee on Education and the Workforce
House of Representatives
2181 Rayburn House Office Building
Washington, DC 20515-6100

Dear Chairman Kline:

Thank you for your interest in the Office of the General Counsel’s (OGC’s) proposed pilot program to reorganize Regions 14, 17, 25 and Subregion 33. I appreciate the opportunity to discuss this proposal.

In March of last year, I testified before the Labor, HHS Subcommittee of the House Committee on Appropriations. During that hearing, I assured the Committee that the OGC is committed to adjusting to the realities of declining national case intake and budget uncertainty. One month later, the National Labor Relations Board’s Office of Inspector General issued an audit report that included relevant data and recommendations. Since that time, I have directed my staff to seek out long-term, national solutions that guarantee efficient use of agency resources and continued exemplary service to the public.

The proposed pilot program to reorganize Regions 14, 17, 25 and Subregion 33 is designed to test the effects of consolidation on some of our offices. Among our goals is to equalize office sizes in order to move towards a model where case intake in one office is more consistent with case intake in others. To that end, we have proposed a pilot program for consolidation of our St. Louis office, exclusive of our Peoria Subregional Office, with our Kansas City Regional Office, inclusive of the Tulsa Resident Office. During the proposed pilot, the Peoria Subregional Office would be consolidated with our Indianapolis Regional Office.

Should the pilot proceed, the top management structure for Regions 14 and 17 will be combined under the sitting Director of Region 17, and the responsibility for oversight of Subregion 33, Peoria, will be assumed by the sitting Director of Region 25, Indianapolis. Please be assured that the proposed restructuring pilot does not carry with it a final decision that either Region 17, Kansas City, or Region 14, St. Louis, will be the ultimate home of a sitting Regional Director. Rather, the proposed pilot merely affords the Agency the opportunity to assess the performance of a combined Regional Office.
Likewise, there is no plan to close any Regional, Subregional or Resident Office under the proposed pilot. Rather, the proposed pilot is designed to provide insight into ways to minimize any anticipated and unanticipated obstacles resulting from restructuring that would tend to interfere with each office's case handling effectiveness. It is expected that the Regional Director's goal of regularly travelling between offices and the Agency's significant technological accomplishments – including the Federal Government's leading legal case management system – will allow all offices to remain efficient, responsive organizations during the pilot period. Should the consolidation proceed, as with the pilot, there would be no plan to close any office.

Thus far, this office has received robust input from various stakeholders. In February, we announced the proposed pilot program to the Practice and Procedure Committee of the Section of Labor and Employment Law of the American Bar Association. As a result of that announcement, a group of practitioners in St. Louis, Missouri requested and received a telephone briefing by this office. Subsequently, a group of local union officials in Illinois requested and received a telephone briefing by this office. In addition to those briefings, this office has received letters from members of Congress and other members of the Illinois and Missouri communities. Those letters are enclosed.

I intend to make a decision as to whether to institute the pilot program within the next few days. I look forward to working with you on this Agency's efforts to achieve efficient use of our resources. Please do not hesitate to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at 202-273-3700 if you have additional questions regarding this matter.

Sincerely,

Lafe E. Solomon
Acting General Counsel

Enclosures

cc: The Honorable George Miller, Ranking Minority Member Committee on Education and the Workforce
March 28, 2012

Lafe E. Solomon
Acting General Counsel
National Labor Relations Board
1099 14th Street, N.W.
Washington, D.C. 20570

Dear Acting General Counsel Solomon:

I respectfully request a briefing on and documents and communications related to the St. Louis, Missouri and Kansas City, Kansas National Labor Relations Board (NLRB) regional office consolidation pilot program your office is considering. The efficient operation of the NLRB is of the utmost importance to this committee, employees, and employers.

Last year, the NLRB’s Office of Inspector General (OIG) issued an audit report on case processing costs. The OIG found that the cost per production unit varied significantly between the regions. The NLRB’s Region 5 office, serving the Baltimore area, had a cost per production unit of $1,788.54 and employed eight managers and supervisors and 20 professional employees. In contrast, Region 26 office, serving the Memphis area, had a cost per production unit of $2,741.22 and employed seven managers and supervisors and 11 professional employees. Based on its findings, the OIG recommended that the NLRB could achieve greater efficiencies by “consolidating offices and eliminating positions in overstaffed Regions by attrition.” Additionally, it recommended “relocating offices in high rent urban office districts to locations that offer lower lease costs when the relocation will result in cost savings.”

1 NLRB Case Processing Costs Report. OIG-AMR-64-11-02 (April 7, 2011).
2 Id. at 1.
3 Cost Per Unit = Total Production Units / Case Processing Cost. For example, Boston’s total production units were 2,780.09 and case processing costs were $5,671,964.86, therefore, the cost per unit was $2,040.21. Id. at 6.
4 Id. at 6.
5 Id.
6 Id. at 1.
7 Id.
On February 27, 2012, you announced consideration of a pilot program to “consolidate Regional Offices in St. Louis, Missouri (Region 14) and Kansas City, Kansas (Region 17).” The release states that you will “thoroughly consider input from Agency staff and from external stakeholders, including practitioners, members of the management-labor relations community, and Members of Congress, before making a final decision about whether to proceed with the pilot program.”

To enable the committee to better understand the scope of the reorganization, the issues involved, the interests of internal and external stakeholders, and to ensure the efficient operation of the NLRB, please contact committee staff to arrange a briefing and provide the following no later than April 11, 2012:

1. All documents and communications relating to the pilot program to consolidate Region 14 and 17 offices;

2. A list of all outside parties from which the NLRB has received documents and communications relating to the pilot program to consolidate Region 14 and 17 offices; and

3. A list of all meetings held with external stakeholders relating to the pilot program to consolidate Region 14 and 17 offices, including a list of stakeholders in attendance, the date of the meeting, and a summary of the meeting.

To arrange the briefing or request additional information, please contact Marvin Kaplan, House Education and the Workforce Committee, at (202) 225-7101.

Sincerely,

JOHN KLINE
Chairman
Committee on Education and the Workforce

cc: The Honorable George Miller, Senior Democratic Member, Education and the Workforce Committee

8 Pilot Program Under Consideration to Consolidate Regional Offices, National Labor Relations Board (February 27, 2012).
9 Id.
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON EDUCATION AND THE WORKFORCE
MAJORITY OFFICE
2181 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6100

OFFICIAL BUSINESS

Lafe E. Solomon
Acting General Counsel
National Labor Relations Board
1099 14th Street, N.W.
Washington, DC 20570
April 9, 2012

The Honorable Darrell Issa, Chairman
Committee on Oversight and Government Reform
House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515-6143

Dear Chairman Issa:

Today, the Office of the General Counsel is enclosing documents that are being produced to Freedom of Information Act requesters pursuant to the Agency’s administrative review process.

Please do not hesitate to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at 202-273-3700 if you would like additional assistance regarding this matter.

Sincerely,

Lafe E. Solomon
Acting General Counsel

Enclosures

cc: The Honorable Elijah E. Cummings, Ranking Minority Member
Committee on Oversight and Government Reform
April 9, 2012

The Honorable John Kline, Chairman
Committee on Education and the Workforce
House of Representatives
2181 Rayburn House Office Building
Washington, DC 20515-6100

The Honorable Phil Roe, Chairman
Subcommittee on Health, Employment, Labor and Pensions
Committee on Education and the Workforce
House of Representatives
2181 Rayburn House Office Building
Washington, DC 20515-6100

Dear Chairman Kline and Chairman Roe:

Today, in response to your December 16, 2011 request for additional information about the Boeing case, I have enclosed a CD containing mostly unredacted emails responsive to that request. I provide these communications in order to supplement my December 20, 2011 letter explaining the legal and factual basis of the complaint, and the multitude of documents already provided to the Committee germane to those matters.

The redactions made in this production include material that is not germane to the request or is personal privacy information. Aside from those redactions, the Committee is receiving information that is not being disclosed to the public pursuant to FOIA. As described in my December 20, 2011 letter, this office will continue to provide responsive documents to the committee on a rolling basis as the collection and review process continues.

Please do not hesitate to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at 202-273-3700 if you would like additional assistance regarding this matter.

Sincerely,

[Signature]

Lafe E. Solomon
Acting General Counsel

Enclosures

cc: The Honorable George Miller, Ranking Minority Member
Committee on Education and the Workforce
April 9, 2012

The Honorable Darrell Issa, Chairman
Committee on Oversight and Government Reform
House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515-6143

Dear Chairman Issa:

This letter serves as my continuing response to the subpoena served on the National Labor Relations Board, Office of the General Counsel on August 7, 2011. In that regard, I am enclosing a CD containing mostly unredacted emails responsive to that subpoena. The redactions made in this production include material that is not germane to the request or is personal privacy information. Aside from those redactions, the Committee is receiving information that is not being disclosed to the public pursuant to FOIA.

This office will continue to provide documents to the Committee on a rolling basis as the collection and review process described in our September 9, 2011 letter proceeds. Please do not hesitate to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at (202) 273-3700 if you would like additional assistance regarding this matter.

Sincerely,

Lafe E. Solomon
Acting General Counsel

Enclosures

cc: The Honorable Elijah E. Cummings, Ranking Minority Member
Committee on Oversight and Government Reform
March 20, 2012

The Honorable Darrall Issa, Chairman
Committee on Oversight and Government Reform
House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Issa:

Please find enclosed a CD containing mostly unredacted emails responsive to the Committee’s February 13, 2012 request for information. The redactions made in this production include material that is personal privacy information. Aside from those redactions, the Committee is receiving some information that is not being disclosed to the public pursuant to FOIA.

Please do not hesitate to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at (202) 273-3700 if you would like additional assistance regarding this matter.

Sincerely,

[Signature]
Late E. Solomon
Acting General Counsel

Enclosures

cc: The Honorable Elijah E. Cummings, Ranking Minority Member
Committee on Oversight and Government Reform
March 20, 2012

The Honorable John Kline, Chairman
Committee on Education and the Workforce
House of Representatives
2181 Rayburn House Office Building
Washington, DC 20515-6100

The Honorable Phil Roe, Chairman
Subcommittee on Health, Employment, Labor and Pensions
Committee on Education and the Workforce
House of Representatives
2181 Rayburn House Office Building
Washington, DC 20515-6100

Dear Chairman Kline and Chairman Roe:

Today, in response to your December 16, 2011 request for additional information about the Boeing case, I have enclosed a CD containing mostly unredacted emails responsive to that request. I provide these communications in order to supplement my December 20, 2011 letter explaining the legal and factual basis of the complaint, and the multitude of documents already provided to the Committee germane to those matters.

The redactions made in this production include material that is not germane to the request or is personal privacy information. As described in my December 20, 2011 letter, this office will continue to provide responsive documents to the committee on a rolling basis as the collection and review process continues.

Please do not hesitate to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at 202-273-3700 if you would like additional assistance regarding this matter.

Sincerely,

Lafe E. Solomon
Acting General Counsel

Enclosures

cc: The Honorable George Miller, Ranking Minority Member Committee on Education and the Workforce
March 13, 2012

The Honorable Darrell Issa, Chairman
Committee on Oversight and Government Reform
House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Issa:

This letter serves as my continuing response to the subpoena served on the National Labor Relations Board, Office of the General Counsel on August 7, 2011. In that regard, I am enclosing a CD containing mostly unredacted emails responsive to that subpoena. The redactions made in this production include material that is not germane to the request or is personal privacy information. Aside from those redactions, the Committee is receiving all information that is not being disclosed to the public pursuant to FOIA.

This office will continue to provide documents to the Committee on a rolling basis as the collection and review process described in our September 9, 2011 letter proceeds. Please do not hesitate to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at (202) 273-3700 if you would like additional assistance regarding this matter.

Sincerely,

[Signature]
Lara E. Solomon
Acting General Counsel

Enclosures

cc: The Honorable Elijah E. Cummings, Ranking Minority Member
    Committee on Oversight and Government Reform
March 13, 2012

The Honorable John Kline, Chairman
Committee on Education and the Workforce
House of Representatives
2181 Rayburn House Office Building
Washington, DC 20515-6100

The Honorable Phil Roe, Chairman
Subcommittee on Health, Employment, Labor and Pensions
Committee on Education and the Workforce
House of Representatives
2181 Rayburn House Office Building
Washington, DC 20515-6100

Dear Chairman Kline and Chairman Roe:

Today, in response to your December 18, 2011 request for additional information about the Boeing case, I have enclosed a CD containing mostly unredacted emails responsive to that request. I provide these communications in order to supplement my December 20, 2011 letter explaining the legal and factual basis of the complaint, and the multitude of documents already provided to the Committee germane to those matters.

The redactions made in this production include material that is not germane to the request or is personal privacy information. As described in my December 20, 2011 letter, this office will continue to provide responsive documents to the committee on a rolling basis as the collection and review process continues.

Please do not hesitate to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at 202-273-3700 if you would like additional assistance regarding this matter.

Sincerely,

Lafe E. Solomon
Acting General Counsel

Enclosures

cc: The Honorable George Miller, Ranking Minority Member
Committee on Education and the Workforce
February 22, 2012

The Honorable Darrell Issa, Chairman
Committee on Oversight and Government Reform
House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Issa:

This letter serves as my continuing response to the subpoena served on the National Labor Relations Board, Office of the General Counsel, on August 7, 2011. In that regard, I am enclosing a CD containing mostly unredacted emails responsive to that subpoena. The redactions made in this production include material that is not germane to the request or is personal privacy information. Aside from those redactions, the Committee is receiving some information that is not being disclosed to the public pursuant to FOIA.

This office will continue to provide documents to the Committee on a rolling basis as the collection and review process described in our September 9, 2011 letter proceeds. Please do not hesitate to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at (202) 273-3700 if you would like additional assistance regarding this matter.

Sincerely,

Lafe E. Solomon
Acting General Counsel

Enclosures

cc: The Honorable Elijah E. Cummings, Ranking Minority Member
Committee on Oversight and Government Reform
February 22, 2012

The Honorable John Kline, Chairman
Committee on Education and the Workforce
House of Representatives
2181 Rayburn House Office Building
Washington, DC 20515-6100

The Honorable Phil Roe, Chairman
Subcommittee on Health, Employment, Labor and Pensions
Committee on Education and the Workforce
House of Representatives
2181 Rayburn House Office Building
Washington, DC 20515-6100

Dear Chairman Kline and Chairman Roe:

Today, in response to your December 16, 2011 request for additional information about the Boeing case, I have enclosed a CD containing mostly unredacted emails responsive to that request. I provide these communications in order to supplement my December 20, 2011 letter explaining the legal and factual basis of the complaint, and the multitude of documents already provided to the Committee germane to those matters.

The redactions made in this production include material that is not germane to the request or is personal privacy information. As described in my December 20, 2011 letter, this office will continue to provide responsive documents to the committee on a rolling basis as the collection and review process continues.

Please do not hesitate to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at 202-273-3700 if you would like additional assistance regarding this matter.

Sincerely,

Lafe E. Solomon
Acting General Counsel

Enclosures

cc: The Honorable George Miller, Ranking Minority Member
    Committee on Education and the Workforce
February 7, 2012

The Honorable Darrell Issa, Chairman
Committee on Oversight and Government Reform
House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Issa:

This letter serves as my continuing response to the subpoena served on the National Labor Relations Board, Office of the General Counsel on August 7, 2011. In that regard, I am enclosing a CD containing mostly unredacted emails responsive to that subpoena. The redactions made in this production include material that is not germane to the request or is personal privacy information. Aside from those redactions, the Committee is receiving some information that is not being disclosed to the public pursuant to FOIA.

This office will continue to provide documents to the Committee on a rolling basis as the collection and review process described in our September 9, 2011 letter proceeds. Please do not hesitate to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at (202) 273-3700 if you would like additional assistance regarding this matter.

Sincerely,

Lara E. Solomon
Acting General Counsel

Enclosures

cc: The Honorable Elijah E. Cummings, Ranking Minority Member
    Committee on Oversight and Government Reform
February 7, 2012

The Honorable John Kline, Chairman  
Committee on Education and the Workforce  
House of Representatives  
2181 Rayburn House Office Building  
Washington, DC 20515-8100

The Honorable Phil Roe, Chairman  
Subcommittee on Health, Employment,  
Labor and Pensions  
Committee on Education and the Workforce  
House of Representatives  
2181 Rayburn House Office Building  
Washington, DC 20515-8100

Dear Chairman Kline and Chairman Roe:

Today, in response to your December 16, 2011 request for additional information about the Boeing case, I have enclosed a CD containing mostly unredacted emails responsive to that request. I provide these communications in order to supplement my December 20, 2011 letter explaining the legal and factual basis of the complaint, and the multitude of documents already provided to the Committee germane to those matters.

The redactions made in this production include material that is not germane to the request or is personal privacy information. As described in my December 20, 2011 letter, this office will continue to provide responsive documents to the committee on a rolling basis as the collection and review process continues.

Please do not hesitate to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at 202-273-3700 if you would like additional assistance regarding this matter.

Sincerely,

[Signature]
Lame E. Solomon  
Acting General Counsel

Enclosures

cc: The Honorable George Miller, Ranking Minority Member  
Committee on Education and the Workforce
The Honorable John Kline, Chairman
Committee on Education and the Workforce
House of Representatives
2181 Rayburn House Office Building
Washington, DC 20515-6100

The Honorable Phil Roe, Chairman
Subcommittee on Health, Employment,
Labor and Pensions
Committee on Education and the Workforce
House of Representatives
2181 Rayburn House Office Building
Washington, DC 20515-6100

Dear Chairman Kline and Chairman Roe:

Today, in response to your December 16, 2011 request for additional information about the collective-bargaining agreement reached between the Boeing Company (Boeing) and the International Association of Machinists (IAM) and the dismissal of the Boeing complaint, I have enclosed a CD containing mostly unredacted emails responsive to that request. I provide these communications in order to supplement our January 3, 2012 CD containing emails responsive to the Committee’s request and my December 20, 2011 letter explaining the legal and factual basis of the complaint and the events leading up to the withdrawal of the complaint against Boeing.

The redactions made in this production include material that is not germane to the request or is personal privacy information. As described in my December 20, 2011 letter, this office will continue to provide responsive documents to the Committee on a rolling basis as the collection and review process continues.

Please do not hesitate to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at 202-273-3700 if you would like additional assistance regarding this matter.

Sincerely,

[Signature]
Lafe E. Solomon
Acting General Counsel

Enclosures

cc: The Honorable George Miller, Ranking Minority Member Committee on Education and the Workforce
January 17, 2012

The Honorable Darrell Issa, Chairman
Committee on Oversight and Government Reform
House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Issa:

Today, in response to the Committee's December 14, 2011 request for additional information regarding the collective-bargaining agreement reached between the Boeing Company (Boeing) and the International Association of Machinists (IAM) and the dismissal of the Boeing complaint, I have enclosed a CD containing mostly unredacted emails responsive to that request. I provide these communications in order to supplement our January 3, 2012 CD containing emails responsive to the Committee's request and my December 20, 2011 letter explaining the events leading up to the withdrawal of the complaint against Boeing.

The redactions made in this production include material that is not germane to the request or is personal privacy information. This office continues to collect and review documents consistent with the search parameters agreed to with the Committee. Thus far, many of the documents that contain the agreed upon search terms are not germane to the Committee's request. We will continue to thoroughly search and review those documents and would appreciate the opportunity to continue to discuss with the Committee ways to prioritize our search based on the Committee's ongoing interest in this matter.

Please do not hesitate to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at (202) 273-3700 if you would like additional assistance regarding this matter.

Sincerely,

[Signature]

Lafe E. Solomon
Acting General Counsel

Enclosures

cc: The Honorable Elijah E. Cummings, Ranking Minority Member
Committee on Oversight and Government Reform
January 3, 2012

The Honorable John Kline, Chairman
Committee on Education and the Workforce
House of Representatives
2181 Rayburn House Office Building
Washington, DC  20515-6100

The Honorable Phil Roe, Chairman
Subcommittee on Health, Employment, Labor and Pensions
Committee on Education and the Workforce
House of Representatives
2181 Rayburn House Office Building
Washington, DC  20515-6100

Dear Chairman Kline and Chairman Roe:

Today, in response to your December 16, 2011 request for additional information about the theory and disposition of the Boeing case, I have enclosed a CD containing mostly unredacted emails responsive to that request. I provide these communications in order to supplement my December 20, 2011 letter explaining the legal and factual basis of the complaint and the events leading up to the withdrawal of the complaint against Boeing.

The redactions made in this production include material that is not germane to the request or is personal privacy information. As described in my December 20, 2011 letter, this office will continue to provide responsive documents to the Committee on a rolling basis as the collection and review process continues.

Please do not hesitate to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at (202) 273-3700 if you would like additional assistance regarding this matter.

Sincerely,

L. E. Solomon
Acting General Counsel

Enclosures

cc: The Honorable George Miller, Ranking Minority Member
Committee on Education and the Workforce
January 3, 2012

The Honorable Darrell Issa, Chairman
Committee on Oversight and Government Reform
House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Issa:

Today, in response to the Committee’s December 14, 2011 request for additional information regarding the collective-bargaining agreement reached between the Boeing Company (Boeing) and the International Association of Machinists (IAM) and the dismissal of the Boeing complaint, I have enclosed a CD containing mostly unredacted emails responsive to that request. I provide these communications in order to supplement my December 20, 2011 letter explaining the events leading up to the withdrawal of the complaint against Boeing.

The redactions made in this production include material that is not germane to the request or is personal privacy information. As described in my December 20, 2011 letter, this office will continue to provide responsive documents to the Committee on a rolling basis as the collection and review process continues.

Please do not hesitate to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at (202) 273-3700 if you would like additional assistance regarding this matter.

Sincerely,

Lafe E. Solomon
Acting General Counsel

Enclosures

cc: The Honorable Elijah E. Cummings, Ranking Minority Member
Committee on Oversight and Government Reform