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August 10, 2017

VIA ELECTRONIC FILING

Mr. Andrew R. Davis
Chief of the Division of Interpretations and Standards
Office of Labor-Management Standards
United States Department of Labor
200 Constitution Avenue, N.W., Room N-5609
Washington, D.C. 20210

**Re: Proposed Rescission of Rule Interpreting "Advice Exemption" in Section 203(c) of the Labor-Management Reporting and Disclosure Act:
RIN 1245-AA07**

Dear Mr. Davis:

This letter constitutes comments by Weinberg, Roger and Rosenfeld on the proposed rule which rescinds the prior implemented rule on management coercers.

We submitted comments with respect to the proposed rulemaking that led to the revised management coercer rule.

During the period between when the proposed rule was submitted and the present, we submitted a number of complaints to the Department of Labor with respect to the failure of consultants (hereinafter called "management coercers") and/or employers to submit LM-20s, LM-21s and LM-10s. We also had submitted prior complaints with respect to the same issue.

There appears to be a policy of non-enforcement of the provisions of the law. In fact, as far as we can tell, as to virtually all the complaints that we have submitted, none with the exception of one, led to the filing of any LM-10. No comparable LM-20s or LM-21s were filed in the same case.

We are attaching a list of these unresolved complaints regarding LM-10s, LM-20s and LM-21s. As this summary reflects, the Department of Labor and the Secretary of Labor ignore the provisions of the law.

In support of this, I am also providing copies of the complaints, without attachments, that were submitted in many of the cases. In many cases, the complaints arose out of decisions of the National Labor Relations Board which reflected management coercer activity engaged in by management coercers. In some cases, these management coercers were attorneys.

August 10, 2017

Page 2

Nothing has happened as far as we can see. The Department has a policy, not only of non-action, but also non-disclosure.

Our comment is that it is a waste of the Department's time to rescind a proposed rule when it doesn't enforce the current rule or did not enforce the amended rule. The Department claims to enforce provisions of Landrum-Griffin. It does so by enforcing election complaints and complaints about unions. The Department, however, seems to have a policy of not enforcing any of the rules that apply to employers or management coercers.

Our comment further is that the Department of Labor should issue a directive that the law be enforced including the reporting requirements of management coercers. It should decline to issue the rule and issue instead a strong statement that the law should be enforced vigorously.

We submit this comment and request that the Department of Labor abandon its effort to rescind the rule. The proposed rulemaking should be rejected.

Sincerely,



David A. Rosenfeld

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Attachments

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UNRESOLVED COMPLAINTS REGARDING LM-20s AND LM-21s

Nature of Activity	Reporting Entities	Date Complaint Filed	Status
Direct persuader activity by the attorney for the employer, reported in 356 NLRB No. 48 (2010)	Correctional Medical Services, Inc. and unnamed labor attorney	December 17, 2010	Complaint acknowledged February 4, 2011, no further response or any filings since then
Coercive activity by attorneys for employer, reported in 361 NLRB No. 88 (2012), <i>enfd</i> D.C. Circuit March 2017	Glenn Plosa , Zinser Law Firm, P.C., Richard Sutherland and Ampersand Publishing d/b/a Santa Barbara News-Press	March 5, 2010	No action
Anti-union literature prepared by consultant distributed in organizing drive. See NLRB Case 28-RC-089071	Monte Carlo Resort and PTI Labor Research	November 6, 2012	No action
Representation campaign for Teamsters 278 in 2010, 20-RC-18148. In the course of an organizing drive, the employer had a consultant engage in direct persuader activity	Bauer Limousine and direct persuader	May 26, 2010	No action
False filing of LM-21 by Greg Kamer	Gregory J. Kamer, Law Firm of Kamer, Zucker & Abbott and employer, 155 East Tropicana, LLC	October 9, 2012	No action
Persuader activity during an election campaign; some of the conduct was reported in NLRB case 357 No. 168	2 Sister Food Group, Seyfarth Shaw and various consultants	August 6, 2009	Advised that 2 Sisters had filed one LM-10, no LM-20s or LM-21s filed
Payment to employees to engage in unlawful activity to persuade other employees. Reported in NLRB Case 358 NLRB No. 65 (2012)	Tesco d/b/a Fresh & Easy	September 27, 2012	No action

Nature of Activity	Reporting Entities	Date Complaint Filed	Status
False filings of LM-20s and LM-21s by attorney and alter egos	Ronald L. Mason, Midwest Management Consultants, Inc. and Mason Law Firm Co.	September 19, 2013	No action
Employer consultant engaged in unlawful bargaining as found by the ALJ. See Case 32-CA-024980, 025397 and 025545 involving Castlewood Country Club	Castlewood Country Club and Littler Mendelson	August 29, 2012	No action
Failure to file LM-21, although Murphy filed an LM-21, no LM-21 was filed	Dennis Murphy/Murphy, Austin Adams Schoenfeld LLP	September 4, 2013	No action
Employer paid attorney to represent individual employees in effort to defeat union organizing	Gerowan Filing, Inc., Anthony Raymundo, McCormick, Barstow, Sheppard, Wayte & Carruth LLP	October 9, 2013	No action
Production of YouTube video by third party which was used in campaign with employees	Target, unknown production company	June 29, 2012	No action
Anti-union training by outside consultant; <i>Pacific Coast M.S. Industries</i> , Cases 32-CA-22748; 355 NLRB No. 226 (2010)	Pacific Coast Industries (now closed) and Littler Mendelson and Bruce Sarchet	August 28, 2012, January 7, 2012	No action
Hiring of union coercer. Facts are stated in 359 NLRB No. 36	Hoodview Vending and Sanford Rudnick	January 2, 2013	No action
Direct contact with employees by lawyers for employer engaging in direct persuader activity. Facts are stated in 357 NLRB No. 51, <i>enf'd in part</i> , D.C. Circuit	Ampersand Publishing dba Santa Barbara News-Press and attorneys Dugan Kelley, David Milstein, Barry Cappello of Cappello & Noel	January 23, 2012	No action
Employer engaged in bad faith negotiations through a consultant. Facts reported in 358 NLRB No. 141, <i>enf'd in part</i> , D.C. Circuit	Ampersand Publishing dba Santa Barbara News-Press and Michael Zinser	October 9, 2012	No action

Nature of Activity	Reporting Entities	Date Complaint Filed	Status
Employer hired consultant to engage in unlawful activity. Conduct is described in 356 NLRB No. 174 (2011), <i>enf.d</i> D.C. Circuit (2012)	White Motor Sales, dba Fairfield Toyota and Fairfield Imports, dba Fairfield Toyota, Patrick Jordan	November 6, 2012	No action
Direct persuader activity by law firm hired by employer. Facts are contained in 32-CA-019018 and subsequent cases	Safeway Stores and Law Offices of Palmer, Reifler & Assoc.	November 20, 2015	No action
Employer implemented unlawful arbitration agreement in response to Section 7 protected activity. Conduct is described in <i>Tarlton & Son</i> , 363 NLRB No. 175.	Tarlton and Son, Inc. and attorneys, James Burrill and Hill, Farrer & Burrill LLP	July 24, 2015	No action
DHL Express, Inc., Cases 4-CA-35417 et al. (355 NLRB No. 144) (2010);	DHL Express, Inc.,	January 7, 2011	No action
Attorney for company directly contacted employees in an effort to persuade them with respect to their Section 7 rights. 364 NLRB No. 69	Capitol Medical Center and its attorney Glenn Bunting of Moss Adams and Constangy, Brooks, Smith & Prophete, LLP	August 22, 2016	No action
Attorney directly engaged in persuader activity. See 365 NLRB No. 34	Tischigfrie Properties, Inc and David Curtiss	February 17, 2017	No action
Blue Diamond Growers, Case 20-CA-34199; 2009 NLRB LEXIS 278 (2009).	Blue Diamond Growers	January 7, 2011	No action
Scully Transportation/Distribution, Case 32-CA-25497. Consultants engaged in conspiracy with management to single out union supporters.	Scully Transportation/Distribution,	January 7, 2011	No action
Attorney engaged in unlawful conduct by refusing to bargain on behalf of client. Conduct reported in 357 NLRB No. 149	DIRECTV U.S.	January 5, 2012	No action

Nature of Activity	Reporting Entities	Date Complaint Filed	Status
Employer paid over \$200,000 to employee to discourage other employees from engaging in Section 7 activity. Facts are discussed in Decision of ALJ in 28-CA-177035, 178621, 18181 and 182541	Shamrock Foods Company and Baker & Hotstetler, LLP	July 5, 2017	No action
Direct contact with employees by attorney for employer	Mossy Nissan Oceanside and Warren Nelson and Fisher & Phillips	June 27, 2016	OLMS did respond and ask for more information. Presume investigation is continuing. No confirmation

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December 17, 2010

New York District Office
U.S. Department of Labor, OLMS
Ralph Gerchak, District Director
201 Varick St., Room 878
New York, NY 10014

Re: The Enclosed Case

Dear Mr. Gerchak:

This is a request that the Department of Labor require that the employer and the attorney involved in the enclosed decision file the appropriate LM10, 20 and 21 reports. It's clear the attorney for the employer engaged in persuader activity when unlawfully he questioned and interrogated employees. This was plainly persuader activity.

Please let me know what action your office intends to take to make sure that the appropriate reports are, or will be filed by all of them.

Sincerely,



David A. Rosenfeld

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Enclosure
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cc: Andrew Davis

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March 5, 2010

Alan Weiss
Employment Standards Administration Office of Labor Management Standards
Los Angeles District Office
915 Wilshire Boulevard, Room 910
Los Angeles, Ca 90017

Re: Filing of LM-20 and LM-21 by Glenn Plosa, Richard Sutherland and their respective lawfirms.

Dear Mr. Weiss:

I am enclosing a copy of a recent decision of the Administrative Law Judge, Lana Parke of the National Labor Relations Board.

You will note that she found that the employer, Ampersand Publishing through it's consultants, Sutherland, Plosa, et al. served subpoenas to produce affidavits which they provided to the NLRB. These were served on employees in violation of Section 8(a)(1). She found specifically that this conduct "had the effect of interfering with, restraining, coercing employees in violation of 8(a)(1) of the Act. See page 8.

It seems to me this triggers the requirement that the lawyers file their persuader reports, LM-20 and 21s. It also seems to me that this requires Ampersand to file the LM-10 in light of this conduct.

Please open the file and investigate this matter and let me know your office's conclusion.

Sincerely,


David A. Rosenfeld

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Enclosure

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November 6, 2012

Ms. Beverly Perkins
District Director
U.S. Department of Labor - OLMS - Los
Angeles District Office
915 Wilshire Blvd., Suite 910
Los Angeles, CA 90017

Re: Monte Carlo Resort/PTI Labor Research

Dear Ms. Perkins:

This is a request that the Department of Labor investigate the failure of PTI Labor Research to file its LM-20 regarding the above named Employer.

Painters District Council 15 filed an election petition with the Board on or about September 11, 2012. An election was conducted in which unfortunately the Union lost. The case is 28-RC-089071. During the course of election activity, Employer passed out the enclosed "Executive Summary of Petition Activity." This summary was obviously prepared by PTI Labor Research in Houston, Texas. Given that the Department of Labor can figure this out, because it's on the bottom of the document, would you please force PTI to file its LM-20, remind it that its needs to file LM-21 and then send a letter to the Employer reminding it that it needs to file an LM-10.

Sincerely,


David A. Rosenfeld

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Enclosure

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May 26, 2010

Jennifer Bergschneider
District Director
U.S. Department of Labor
Office of Labor-Management Standards
90 7th Street, Suite 18-100
San Francisco, CA 94103

Re: Reporting Activity

Dear Ms. Bergschneider:

On December 14, 2007 Region 20 conducted an election of the drivers of Bauer Limousine Service in the Bay Area. The company's address at that time was 1220 Charleston in Mountain View. During the course of the campaign, the employer used a union buster. I have been unable to determine whether Bauer filed LM-10.

Please let me know whether the LM-10 was filed by Bauer and if it indicates who the union buster was. If you do not have one filed, please let me know and I will provide evidence from the Union that a union buster was used and then you can go after them for willfully failing to file the LM-10.

Sincerely,


David A. Rosenfeld

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October 9, 2012

Ms. Beverly Perkins
District Director
U.S. Department of Labor - OLMS - Los
Angeles District Office
915 Wilshire Blvd., Suite 910
Los Angeles, CA 90017

Re: Filing By Gregory J. Kamer

Dear Ms. Perkins:

The enclosed LM-21 came to my attention in reviewing the OLMS website.

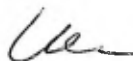
Mr. Kamer is a lawyer with Kamer, Zucker and Abbott, located at 3000 West Charleston Blvd., Las Vegas, NV 89102.

This LM-21 suggests that only Mr. Kamer, as President of Gregory J. Kamer, Ltd., was involved in the reportable activity.

That is false. Mr. Kamer is part of a law firm and it makes no sense to think that he was retained individually and that it was not his law firm. Plainly, they are alter egos. You will note that the address for Gregory J. Kamer, Ltd. is the same as his law firm. In support of this, I am enclosing among other things several pages from a filing in a bankruptcy court indicating that the law firm is "special labor employment counsel for 155 East Tropicana, LLC, . . ." It is the law firm that is the attorney and not Mr. Kamer individually. I am sure if you search further, you will find many instances where the law firm represents this employer and not Mr. Kamer individually.

The law firm needs to file and complete LM-21 indicating all that is labor relations activity. Mr. Kamer is flaunting the law by this filing and your office needs to investigate this.

Sincerely,



David A. Rosenfeld

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Enclosures
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August 6, 2009

United States Department of Labor
Office of Labor Management Standards
Los Angeles District Office
3660 Wilshire Blvd., Suite 708
Los Angeles, CA 90010

Re: 2 Sisters Food Group, Inc./15555 Meridian Park Way, Riverside, California 95218
Persuader Activity

Dear OLMS:

UFCW Local 1167 filed a petition to represent the employees at the above facility in late May 2009. The election was conducted on July 17, 2009.

During that period there was intensive persuader activity by at least four different persuaders. We have not been able to locate the LM-20s yet, which should have been filed with the Department of Labor:

1. James Needles
2. Fernando Rivera
3. Maria Luz Ceballos or (Aguayo)
4. Carlos Restrepo or (Ortiz)

In addition to those four persuaders, there was active persuader activity by at least two persuaders who are not employees of 2 Sisters, who engaged in direct persuader activity.

The first involves the persuader activity of Eric Rodriguez, who is an attorney with Seyfarth Shaw which represented the employer during these proceedings. Mr. Rodriguez appears to be based in Seyarth Shaw's Atlanta Office, located at One Peachtree Point, 1545 Peachtree Street NE, Suite 700, Atlanta, GA 30309.

I am enclosing a report from Martin Hernandez, who was one of the organizers involved in the campaign. You will note, at 10:27 p.m. on July 17, a Union supporter showed up to vote. The Company lawyer, Mr. Rodriguez told him that the polls were closed in an effort to dissuade him

August 6, 2009

Page 2

from voting. This is direct persuader activity and should be reported by Seyfarth Shaw. We are prepared to present additional witnesses as to exactly what happened, but it was plain that Mr. Rodriguez engaged in this persuader activity.

During the course of the election security guards were employed by Alpha One by 2 Sisters Food Group and were placed at the entrance gate. They engaged in numerous instances of persuader activity. One of them, named Damian, asked a worker whether she had voted.

Mr. Duffle, a union representative, also observed as do a number of other witnesses that the security guards asked workers who showed up to vote their names, stopped them or held them at the gate for long periods of time, and then escorted them in to vote. This was all direct persuader activity.

The guard company is:

Alpha One Private Patrol Inc.

PPO# 14647

3870 LA Sierra Ave, Suite 402

Riverside, CA 92505

877 825-7420 951 353-7421 Fax

We have additional statements regarding this and additional evidence.

Would you please assign one of your agents immediately to investigate the failure of Seyfarth Shaw and of the security company to file the LM-20 Reports. I believe that the new administration has placed a higher priority on investigating the failure of persuaders to file LM-20 and 21's and of employer to file the appropriate LM-10 reports.

Please contact me immediately on this.

Sincerely,



David A. Rosenfeld

DAR/rfb

opeiu 3 afl-cio(1)

121935/539723

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September 27, 2012

U.S. Department of Labor, OLMS
Beverly Perkins, District Director
915 Wilshire Blvd., Suite 910
Los Angeles, CA 90017

**Re: Enclosed Decision/Reporting Requirement
Tesco dba Fresh & Easy - 358 NLRB No. 65**

Dear Ms. Perkins:

I am enclosing a recent decision of the National Labor Relations Board.

I have not been able to locate any LM-10 filed by the employer.

It is plain that the employer made payments in order to commit an unfair labor practice. Those payments related to the wages which were paid workers who actually engaged in the handing out of the leaflets.

The Board has found that asking employees to pass out those leaflets and having them pass them out is a violation of the Act. Thus, the employer spent money and made a payment. This was reportable activity under 29 U.S.C. §433(a)(3). Would you please let me know what action your office will be taking to enforce the reporting requirement against this employer.

Sincerely,



David A. Rosenfeld

DAR:lda
opeiu 3 afl-cio(1)
Enclosure

1/685427

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September 19, 2013

Mr. Andrew R. Davis
Chief of the Division of Interpretations and
Standards
Office of Labor-Management Standards,
U.S. Dept. of Labor
200 Constitution Ave., N.W., Room N-5609
Washington, DC 20210

Re: Midwest Management Consultants, Inc.

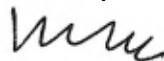
Dear Mr. Davis:

I am enclosing some Form 21s filed by Ronald L. Mason who claims to be both the President and Owner of Midwest Management Consultants, Inc. Mr. Mason is also a member of the firm called the "Mason Law Firm Co." which has the same address as Midwest Management Consultants, Inc. and you can check his website to get additional details. It clearly appears that Midwest Management and the Mason Law Firm are alter egos.

The LM 21s filed by Mr. Mason do not include the arrangements entered into by his law firm to represent employers.

Your department should investigate this and force the alter egos to file LM 21s for all such arrangements.

Sincerely,



David A. Rosenfeld

DAR:js/lda
opeiu 3 afl-cio(1)

Enclosures

124195/734067

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August 29, 2012

Ms. Jennifer Bergschneider
District Director
U.S. Department of Labor
Office of Labor-Management Standards
90 7th Street, Suite 18-100
San Francisco, CA 94103

Re: Castlewood Country Club Decision of Administrative Law Judge

Dear Ms. Bergschneider:

I am enclosing the recent decision of an Administrative Law Judge of the National Labor Relations Board. As you can see from the Decision, the Judge found that Robert Hulteng of Littler Mendelson had engaged in bad faith bargaining. Please let me know whether Castlewood has filed the LM-10 Report since it spent money to commit an Unfair Labor Practice through its Agent, Mr. Hulteng. 29 U.S.C. § 433(a)(3) requires reporting where an employer makes "any expenditure... where an object thereof, directly or indirectly, is to interfere with, restrain, coerce employees in the exercise of the right to organize and bargain collectively..." Here the expenditure was directly made to Mr. Hulteng and his firm for purposes covered by the statute. Please let me know the status of any investigation to have Castlewood file the appropriate LM-10.

Furthermore, I would like to know whether Littler Mendelson has filed the LM-20 and LM-21. Here the "persuasive" activities were public and not limited to advice. Mr. Hulteng engaged in activity which was intended to persuade employees not to "bargain collectively" by busting the Union in negotiations.

Please let me know the status of this.

Sincerely,

David A. Rosenfeld

DAR:lda
opeiu 3 afl-cio(1)
Enclosure
124195/681655

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September 13, 2013

Bruce Edgington, Acting District Director
U.S. Department of Labor, OLMS
1244 Speer Blvd. Suite 415
Denver, CO 80204

Re: The Enclosed LM-20

Dear Mr. Edgington:

Mr. Murphy has to file the LM-21. He has not filed it. What action will your office take to insure the filing?

Sincerely,



David A. Rosenfeld

DAR:ar/rfb
opeiu 3 afl-cio(1)

Enclosure

124195/732387

STEWART WEINBERG
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October 9, 2013

VIA FACSIMILE AND REGULAR MAIL

U.S. Department of Labor, OLMS
Bruce Edgington, District Director
300 5th Avenue, Suite 1290
Seattle, WA 98104-3308

Re: Attached Letter
State of California Agricultural Labor Relations Board
Case Name: Gerawan Farming, Inc.
Case No. 2013-RD-002-VIS

Dear Mr. Edgington:

I am enclosing a letter which the California Agricultural Labor Relations Board issued on September 25, 2013 detailing conduct by Anthony Raimondo of the Law Firm of McCormick Barstow LLP in Fresno, California.

By the time you get to this, thirty days will have elapsed from the time the conduct began on or around September 18, 2013. Mr. Raimondo's law firm I am sure would not have filed the LM-20.

It is plain that Mr. Raimondo engaged in persuader activity. He and his law firm were directly involved in contacting employees for the purpose of persuader activity. It should be noted that Mr. Raimondo represented the petitioner as an individual petitioner Silvia Lopez as well as the employer.

You should contact the Agricultural Labor Relations Board in California for further information.

Will you please open a file to determine why Mr. Raimondo and his law firm will not file the LM-20 and force them to file the LM-20. This will also require the filing of LM-21 on annual basis and the LM-10 for the employer.

Bruce Edgington, District Director
October 9, 2013
Page 2

Will you please let me know whether the Department takes the position because Gerawan is an agricultural employer and it is not covered within the definition of an employer, 29 U.S.C. § 402(e) for purposes of the LMRDA. That definition does not exclude agricultural employers.

Sincerely,



David A. Rosenfeld

DAR:vl
opeiu 3 afl-cio(1)
Enclosure

1/737338

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June 29, 2012

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Ms. Jennifer Bergschneider
District Director
U.S. Department of Labor
Office of Labor-Management Standards
90 7th Street, Suite 18-100
San Francisco, CA 94103

Re: Target/Persuader Activity

Dear Ms. Bergschneider:

This is a request that the Department of Labor investigate the Target Corporation's failure to file its LM 10 arising out of persuader activity.

I am enclosing a CD which contains a YouTube video which is apparently used by Target and shown to employees.

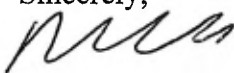
You will note that there are two individuals dressed in Target uniforms with Target name tags suggesting, if not outright stating, that they are Target employees. Nonetheless, if you will check on the web you will see that there are repeated references to the fact these two individuals are not Target employees, but rather subcontractors or contractors to Target. They are professional actors.

If they were to come into stores and talk to the employees like they did on the video they would plainly be engaged in persuader activity on behalf of Target. I see no difference with them performing on the video which is then shown by Target to the employees.

You can check out their professional actor status by doing a search on the web for this YouTube because there are indications in some of the postings that these are not Target employees but professional actors.

Please review this video and check the web as I have indicated and get back to me. This seems to be a plain case of persuader activity requiring Target to file its LM 10 and for the two actors to file their LM 20 and LM 21s.

Sincerely,



David A. Rosenfeld

DAR:js/kts
Enclosure
124195/673289

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Sacramento, CA 95814-2341
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Honolulu, HI 96813-4500
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August 28, 2012

Ms. Jennifer Bergschneider
District Director
U.S. Department of Labor
Office of Labor-Management Standards
90 7th Street, Suite 18-100
San Francisco, CA 94103

Re: Reporting Activity on Littler Mendelson and Pacific Coast Industries

Dear Ms. Bergschneider:

I am enclosing a copy of a decision of the National Labor Relations Board involving Pacific Coast Industries, dated September 30, 2010.

The employer eventually complied with this decision, although it subsequently closed the facility. You will note that the primary dispute was whether team leader Felicia Montez was a supervisor. The Board found that she was a union supporter, and also found that she was not a supervisor. She was terminated, and the Board ordered her reinstated with back pay.

The employer forced the team leads to go through anti-union training. That training was conducted by an outside consultant named Bruce Sarchet. Mr. Sarchet was at that time and remains employed by Littler Mendelson. Mr. Sarchet is currently Managing Partner in the Sacramento office of Littler Mendelson. The address of Littler Mendelson is: 2520 Venture Oaks Way, Suite 390, Sacramento, CA 95833.

I am enclosing Exhibits 14, 15, and 16 of the unfair labor practice hearing. You will note that Mr. Sarchet signed the certificate of completion that Ms. Montez was trained in 2003 with respect to union awareness. She was also trained by Mr. Sarchet in 2000.

Plainly, this is persuader (management thug) activity by Mr. Sarchet with respect to Ms. Montez and the other team leads. As it turned out they were employees and Mr. Sarchet was engaged in persuader activity.

I have not been able to locate any LM10 filed by Pacific Coast Industries. That may at this point be moot since they have disappeared.

It is plain however, that Mr. Sarchet or Littler Mendelson have not filed the LM20 or 21s for this persuader activity.

Ms. Jennifer Bergschneider
August 28, 2012
Page 2

Would you please let me know what your office intends to do about this. If you need the complete transcript of the NLRB hearing, we can also provide that to you. It will support the fact that these Exhibits were offered and introduced as evidence.

Sincerely,

David A. Rosenfeld

DAR:mp
opeiu 3 afl-cio(1)

Enclosures

113463/681795

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January 2, 2013

Bruce Edginton
District Director
Seattle District Office
U.S. Department of Labor, OLMS
1111 3rd Avenue, Suite 605
Seattle, WA 98101

Re: The Enclosed Letter/ Hoodview Vending

Dear Mr. Edginton:

I am enclosing the brochure that was passed out to the employees during the representation case. You will note that at the bottom it states that the brochure is prepared by Mr. Rudnick.

Your office should also be aware that the NLRB issued its decision on December 21, 2012 involving Hoodview Vending. See case 359 NLRB No. 36. The Board found numerous violations by the employer during the course of this organizing effort. Let me know if you need anything further.

Sincerely,


David A. Rosenfeld

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Enclosure

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January 23, 2012

Alan Weiss
Employment Standards Administration Office
of Labor Management Standards
Los Angeles District Office
915 Wilshire Boulevard, Room 910
Los Angeles, Ca 90017

Re: Ampersand Publishing, LLC d/b/a Santa Barbara News Press
Case 357 NLRB No. 51

Dear Mr. Weiss:

I am enclosing a copy of a recent decision of the National Labor Relations Board. You will note that at least three company lawyers were involved in direct persuader activity with employees. Those lawyers are Dugan Kelley, David Milstein and Barry Capello. There are also several other references in the decision to attorneys for the employer whose names are not identified. Please let me know whether the LM-20's and LM-21's have been filed by those law firms involved. Please also let me know whether the Santa Barbara News Press has filed the LM-10 arising out of all this persuader activity detailed in the Board's decision.

Sincerely,


David A. Rosenfeld

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October 2, 2012

Ms. Beverly Perkins
District Director
U.S. Department of Labor - OLMS - Los Angeles District Office
915 Wilshire Blvd., Suite 910
Los Angeles, CA 90017

Re: Ampersand Publishing, LLC dba Santa Barbara News-Press
Case Nos. 31-CA-28589; 358 NLRB No 141

Dear Ms. Perkins

I am enclosing a recent decision in the National Labor Relations Board.

As you can see, there were repeated conducts which coerced employees in the exercise of their rights to organize or bargain collectively. You will note that among other things, this employer spent a great deal of money on having outside consultants, in this case lawyers, including Michael Zinser, engage in bad faith bargaining. The reporting requirement is triggered under Section 433(a)(3) and (4).

I can find no LM 10 filed by the employer.

Zinser additionally was engaged to coerce employees in the exercise of their rights. He and his firm have a reporting requirement under 29 U.S. C. § 433(b)(1).

Zinser must also report and file his LM 20 and 21.

Zinser and his firm are also employers so he has to file an LM-10.

Would you please advise me what action your office will take to ensure that these employers and Zinser file the appropriate reports?

Sincerely,


David A. Rosenfeld

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Enclosure
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November 6, 2012

Ms. Jennifer Bergschneider
District Director
U.S. Department of Labor - Office of Labor-
Management Standards
90 7th Street, Suite 18-100
San Francisco, CA 94103

Re: White Motor Sales and Fairfield Imports dba Fairfield Toyota

Dear Ms. Bergschneider:

This is a request that your office investigate the failure of Pat Jordan, a management coerced to file his LM-20 and LM-21's. Additionally, this is a request that your office investigate the failure of the employers, White Motor Sales and Fairfield Imports, both of which did business as Fairfield Toyota to file their LM-10 reports. With respect to White Motor Sales and Fairfield Imports dba Fairfield Toyota, the company sold the dealership to Fairfield Imports dba Fairfield Toyota which is the current employer at their location. The location for these dealerships is 2575 Automall Parkway, Fairfield, CA 94533.

The circumstances arise out of these employers' refusal to bargain. White Motor Sales was the initial employer and Fairfield Imports became the successor employer. The circumstances surrounding their refusal to bargain both as the initial employer and successor employer are discussed in the enclosed decision of the National Labor Relations Board and of the decision of the D.C. Circuit enforcing the Board's decision.

I am enclosing letters from Patrick Jordan of the Jordan Law Group in which on behalf of his clients he refuses to bargain. These documents establish that Mr. Jordan engaged in conduct which was a refusal to bargain on behalf of both of his clients. Pat Jordan's address is 1010 B Street, Suite 320, San Rafael, CA 94901.

Both employers have an obligation to file the LM-10 report regarding the expenditures they made in refusing to bargain with the Union. See 29 U.S.C. §433(a)(3).

In addition, this conduct was "persuader activity" because the purpose of refusing to bargain was in part to "persuade employees to... not to exercise... the right to organize and bargain collectively..."

Ms. Jennifer Bergschneider

November 6, 2012

Page 2

Because of that conduct, Mr. Jordan must file his LM-20 and subsequently LM-21 report with respect to his persuader activity pursuant to 29 U.S.C. § 433(b)(1).

Please keep me advised of the status of this investigation.

Sincerely,



David A. Rosenfeld

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Enclosures

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November 20, 2015

Mr. Kendrick Michael
U. S. Department of Labor - Office of Labor
Management Standards
90 7th Street, Suite 2-825
San Francisco, CA 94103

Re: Safeway/Law Offices of Palmer, Reifler & Associates

Dear Mr. Michael:

This is another complaint that Safeway and its representative have not filed the LM 10, 20 or 21s.

The circumstance arises out of direct dealing by the Law Offices of Palmer, Reifler & Associates with a represented employee who formerly worked for Safeway.

Mr. Mohrmann was forced by Safeway and its goons to sign a Settlement Agreement and Release concerning employment issue. At that time he was, and still is, represented by UFCW Local 5. Local 5 was in the process of pursuing a grievance when it received the enclosed letter from the law firm in Florida demanding payment. This was an effort to dissuade Mr. Mohrmann from pursuing his grievance and being represented by Local 5.

It appears to me that the law firm is acting in direct contact with employees in order to influence or coerce them with respect to their exercise of their Section 7 rights. The law firm has not filed an LM 20 or 21. Safeway which has historically used this law firm filed no LM 10 for its use of this law firm to collect these kinds of arrangements.

Would you please open a file and investigate this. Please keep me advised of the status of the investigation.

Sincerely,



David A. Rosenfeld

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July 24, 2015

Kendrick Michael
Office of Labor Management Standards
90 7th Street, Suite 2-825
San Francisco, CA 94103

Re: Tarlton and Son, Inc. and Robert Munoz, an individual
Cases: 32-CA-119054, 32-CA-126896

Dear Mr. Michael:

This is a complaint that Tarlton & Son and its consultant have not filed LM-10's, 20's or 21's arising out of conduct described in the attached Decision of an Administrative Law Judge of the National Labor Relations Board.

In effect, Tarlton & Sons circulated a forced arbitration procedure in response to concerted activity by the employees. The Administrative Law Judge made a finding specifically that the procedure was implemented as a result of that activity. The Administrative Law Judge also found that that forced unilateral arbitration procedure ("FUAP") interfered with the rights guaranteed by Section 7.

It also clear from the record that this FUAP was prepared by the consultant, James Bowles of Hill, Farrer & Burrill.

The document that he prepared was passed out among the employees.

In our view, this is direct persuader activity which requires the filing of the LM-20 and 21 by Mr. Bowles and his firm.

It also triggers a requirement to file LM-10 by the employer.

This filing is required because the conduct was persuaded activity and as well the company paid Mr. Bowles to draft the document which FUAP and the implementation were Unfair Labor Practices.

Please keep me advised of the status of your investigation.

Kendrick Michael
July 24, 2015
Page 2

If you need more documentation for this, let me know.

I am enclosing the ALJ's Decision, the FUAP and a transcript of the proceedings.

Sincerely,

David A. Rosenfeld

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Enclosures

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January 7, 2011

Lafe Solomon
Acting General Counsel
NLRB
1099 - 14th Street, N.W.
Washington, DC 20570-0001

Dr. John Lund
Director
U.S. Department of Labor
Office of Labor Management Standards
Room N5603
200 Constitution Ave., NW
Washington, DC 20210

Re: Coordination of LM 10, 20 and 21 Filings and NLRB Charges

Gentlemen:

I am writing this letter to you because I think it is time that your respective agencies coordinate to ensure that employers file their LM 10's and consultants file their LM 20 and 21's.

The Board often investigates unfair labor practice cases where persuader and consultant activity occur. The Board also investigates cases where consultants have been engage to and/or participate in committing unfair labor practices. As I understand it, there is no present system by which the Board advises the Office of Labor Management Standards about these kinds of problems which arise in the course of the investigation of unfair labor practices. It seems to me that it is important that your agencies coordinate these efforts so that when these activities come to the attention of Board investigators, this conduct will be reported to the Office of Labor Management Standards to ensure proper filing.

The following are just a few examples of Board or Administrative law judge Decisions which reflect conduct by consultants which should trigger reportable activity.

Ampersand Publishing, LLC, Case 31-CA-29253; JD (SF)-04-10(2010); *2 Sisters Food Group, Inc.*, Cases 21-CA-389125, 2010 NLRB LEXIS 160; *DHL Express, Inc.*, Cases 4-CA-35417 et al. (355 NLRB No. 144) (2010); *Pacific Coast M.S. Industries*, Cases 32-CA-22748; 355 NLRB No. 226 (2010); *Blue Diamond Growers*, Case 20-CA-34199; 2009 NLRB LEXIS 278 (2009).

These are just a few examples of reported cases where there are consultants involved where there is either persuader activity and/or where a consultant is involved in committing the unfair labor practices. I am not able to readily determine if any appropriate reports were filed, it seems to me these are matters which the Board should refer to OLMS. There are obviously many more which have not been litigated.

Relating to this, I am enclosing an affidavit recently provided to Region 32 by John Trahan involving a case presently under investigation by Region 32. This case involves Scully Transportation/Distribution, Case 32-CA-25497. You will note that in his affidavit he describes how the company created a "red flag" list of the Union supporters. He describes how the "red flag" list was used to identify those supporters of the union, many of whom were eventually fired by the company.

As part of this, the company hired labor consultants named Hector Flores and Carlos Flores. They began in July or August of 2009. They were involved at that time and later in both persuader activities as well as in participating in or orchestrating unfair labor practices against these workers. They participated in the efforts to develop the "red flag" list and thereafter terminating employees who were on the "red flag" list.

The purpose of this letter is to ask that your agencies specifically take a look at this case. I'd like to ask that your agencies both ask for a complete file from Region 32 of this investigation and that this matter be reviewed by having OLMS to require Scully Transportation/Distribution and the consultants to file all appropriate reports as quickly as possible.

This is particularly important because it is plain that the consultants were hired to assist the employer to commit unfair labor practices. Scully also must report those arrangements just as the labor consultants must report those arrangements to commit unfair labor practices.

This illustrates the need to train NLRB agents to identify activity which is reportable on LM-10, 20 or 21's. The NLRB and OLMS need to cross train investigators and to cross-refer apparent violations of either Act. Your agencies need to set up a coordinated effort to insure the proper filings and disclosures.

Please advise me what action your offices plan to take.

Sincerely,

David A. Rosenfeld

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Enclosure

cc: Region 32 Acting Regional Director

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***** Also admitted in Florida

February 17, 2017

VIA U.S. MAIL

Emily Prorise, District Director
Department of Labor
Offices of Labor Management Relations
Denver Office
1244 Speer Boulevard, Suite 415
Denver, CO 80204

Re: Davin Curtiss
Tschiggfrie Properties, Ltd and Teamsters Local 120
NLRB Case No. 25-CA-161304

Dear Ms. Prorise:

The enclosed NLRB Decision demonstrates that there was a persuader, Davin Curtiss, who engaged in an unfair labor practice through direct contact with employees. Mr. Curtiss violated the NLRB's rule about interrogating employees. He thus assisted his employer client in committing an unfair labor practice and engaged in direct persuader activity. I can find no record that Mr. Curtiss and his law firm have filed the LM-20 or LM-21. I can find no evidence that the employer has filed the LM-10.

You can get the address of the law firm from the NLRB's website. You can also get the address of the employer from the NLRB's website. If you don't know how to use the NLRB's website to do, you can call me and I'll explain it to you.

This will give your office something to do to distract it from union investigations under the new goons who will populating the Department of Labor.

Would you please keep me advised of the course of the investigation?

February 17, 2017
Page 2

Please confirm that you at least received these materials, even though you may be silent until I make a Freedom of Information Act request. Please let me know that you got this.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Rosenfeld', written in a cursive style.

David A. Rosenfeld

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Enclosure

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August 22, 2016

VIA U.S. MAIL

Mr. Bruce Edginton
District Director
U.S. Department of Labor, Office of Labor
Management Standards
300 5th Ave, Suite 1290
Seattle, WA 98104-3308

**Re: Capital Medical Center and UFCW Local 21
Case 19-CA-105724**

Dear Mr. Edginton:

I am enclosing a copy of a recent decision of the National Labor Relations Board involving Capital Medical Center. You will note that the attorney for the Employer, Glenn Bunting, engaged in direct persuader activity by approaching and discouraging employees from engaging in lawful, protected, concerted activity. The Board found, in fact, that Mr. Bunting's conduct in attempting to prohibit those individuals from engaging in lawful picketing was a violation of the National Labor Relations Act.

There has been no LM-20 or 21 filed by Mr. Bunting or his law firm. There has been no LM-10 filed by the Employer.


Please open an investigative file and force these law breakers to file these forms.

Please note that you can contact the NLRB directly and obtain a copy of the transcript if you need it. The Decision on its face demonstrates both direct persuader as well as an effort to dissuade the employees from engaging in lawful, protected activity.

Mr. Bruce Edginton
August 22, 2016
Page 2

If you don't open the file to investigate this, I will treat your investigators the same way when they approach our clients about election matters.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Rosenfeld", written in a cursive style.

David A. Rosenfeld

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124195\878115

cc: Ms. Jena de Mers Raney

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January 5, 2012

Alan Weiss
Employment Standards Administration Office
of Labor Management Standards
Los Angeles District Office
915 Wilshire Boulevard, Room 910
Los Angeles, CA 90017

Re: DIRECTV Home Services
Case No. 21-RC-21191

Dear Mr. Weiss:

The purpose of this letter is to request an investigation as to whether DIRECTV Home Services and Wolflick & Simpson have made their appropriate LM-10, 20 and 21 filings.

I am enclosing a Decision and Certification of Representative from the NLRB dated December 22, 2011 involving this bargaining unit. I am enclosing a letter which I sent to Mr. Wolflick on December 24 demanding bargaining. I am enclosing a copy of a letter of December 28 which he sent to me regarding this. The persuader and reportable activity occurred because the company passed out Mr. Wolflick's letter of December 28 to the employees on the 28th. The employer thus directly communicated its position to the employees. What is reportable is the fact that the company used the Wolflick & Simpson letter to communicate. This is a direct persuader activity because it is direct communication by the lawyer with the employees even if it is a matter of handing out the letter by the lawyer to the employees. Plainly the letter was designed to be handed out to the employees and thus is a form of direct persuader activity by Mr. Wolflick.

Please let me know your Agency's position on this conduct and as to whether reporting is required. Please let me know whether Mr. Wolflick has made the appropriate LM-20 filing. I recognize that the LM-10 is not due for several months but I wanted to initiate the investigation regarding the LM-20 filing by Wolflick and Simpson.

Sincerely


David A. Rosenfeld

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July 5, 2017

VIA U.S. MAIL

Mr. Ed Oquendo
District Director
U.S. Department of Labor - Office of Labor
Management Services
915 Wilshire Blvd., Suite 910
Los Angeles, CA 90017

Re: Shamrock Foods Company

Dear Mr. Oquendo:

This is another complaint that Shamrock Foods and his attorneys, Baker & Hofstetler, have not filed the LM-20s, LM-21s and LM-10s. The circumstances are described in the attached Decision of Administrative Law Judge Eleanor Laws.

This complaint concerns the Thomas Wallace settlement described in her Decision. In fact, the employer paid Mr. Wallace \$214,000 to cease his activity on behalf of the Union. Although the Administrative Law Judge rejected the claim that it violated the National Labor Relations Act, nonetheless, it is clear here that the employer paid a very substantial sum to someone whom it believed to be a representative of the Union. Moreover, it paid this money to an employee "in excess of their normal compensation for the purpose of causing such employee ... directly or indirectly to influence any other employees" All of this conduct violates 29 U.S.C. § 186(a)(1) and (3).

The activity triggers a filing requirement under 29 U.S.C. § 433(a)(1), (2) and (3).

This also requires a filing under 29 U.S.C. § 433(a)(4) because the attorneys drafted the Release.

The attorneys who drafted the Release are also consultants and they should file an LM-20 and LM-21 under 29 U.S.C. § 433(b).

Mr. Ed Oquendo
July 5, 2017
Page 2

Please let me know whether you will open a file and pursue this. Please keep me advised of the status of the investigation.

Sincerely,

A handwritten signature in dark ink, appearing to read "D. Rosenfeld", written in a cursive style.

David A. Rosenfeld

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Enclosure

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June 27, 2016

Mr. Ed Oquendo
District Director
U.S. Department of Labor - Office of Labor
Management Services
915 Wilshire Blvd., Suite 910
Los Angeles, CA 90017

Re: Mossy Nissan Oceanside

Dear Mr. Oquendo:

This letter is an urgent request that your office investigation the very clear persuader activity of Warren Nelson of the firm of Fisher & Phillips on June 24.

The Machinists Union won an NLRB election at Mossy Nissan in 2015. Mr. Nelson has been engaged by the Company since the election and has continued to represent the Company in negotiations. His firm thus has an arrangement with Mossy Nissan.

On June 23, the employees engaged in a lawful, protected strike. The offered to return to work on June 24. Mr. Nelson showed up on June 24 and engaged in discussions with the employees, threatening them that their strike was unprotected. He also made a number of statements to them in an effort to dissuade them from engaging in concerted activity.

This is a case of direct and clear persuader activity.

We are prepared to present several employee witnesses who will establish this persuader activity.

We have checked and the firm of Fisher & Phillips has not filed either an LM-20 or LM-21. Furthermore, Mossy Nissan Oceanside has not filed an LM-10 for 2015.

We are asking that you immediately an investigator to take the statements of employee witnesses before their memories fail.

Mr. Nelson's address is Fisher & Phillips, LLC, 2050 Main Street, Suite 1000, Irvine, CA 92614.

Mr. Ed Oquendo
June 27, 2016
Page 2

Mossy Nissan Oceanside is located at 3535 College Boulevard, Oceanside, CA 92056.

This complaint is filed on behalf of Machinists District Lodge 190, Machinists Local 1484.

I expect to hear from you in the next 72 hours with the name and the investigator who will take these statements.

Because this isn't even a debatable issue, if I don't hear from your office within 72 hours, I will call the Regional Director and, if necessary, go higher to Washington.

Sincerely,

David A. Rosenfeld

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cc: Jena de Mers Raney
Caren Sencer
Caroline Cohen