



Foundation Action

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of the National Right to Work
Legal Defense Foundation, Inc.

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Foundation Spurs DOL Crackdown on Union Boss Self-Dealing

*Grassroots efforts expose
Big Labor hypocrisy, prompt
Bush Administration action*

WASHINGTON, DC – Prompted by hundreds of postcards and letters sent by National Right to Work Foundation supporters, the Department of Labor (DOL) took small steps forward to prevent self-dealing by Big Labor officials and their political allies.

In April, Foundation President Mark Mix called upon the agency to investigate a top AFL-CIO official for violating a federal disclosure law intended to reveal potential conflicts of interest by union officials.

Foundation researchers had discovered that the AFL-CIO's Director of International Affairs, Barbara Shailor, had never filed the mandatory union disclosure forms on which she was required to disclose compensation received by her husband, Robert Borosage, from the "Campaign for America's Future" (CAF), a radical political organization which he founded and leads. Shailor also must disclose that her husband's organization has received hundreds of thousands of dollars from the AFL-CIO in recent years.



A high profile AFL-CIO official recently came under fire for failing to disclose funds funneled into public attacks on Majority Leader Tom DeLay (left).

Aside from risking potential criminal prosecution, the failure to follow federal disclosure law opened up Shailor, Borosage, and CAF to charges of hypocrisy in light of the national notoriety Borosage and CAF recently received in vehemently denouncing Representative Tom DeLay (R-TX) for alleged unethical behavior.

"The workers whose dues, collected in many cases as a condition of employment, pay Ms. Shailor's salary and the AFL-CIO's contributions to her husband's organization are entitled, by law, to know how their money is being spent and whether there has been any self-dealing by union officials," stated Mix in his letter.

Forms provide measure of financial transparency to rank-and-file workers

Under the Labor-Management Reporting and Disclosure Act (LMRDA), thousands of union officers like Shailor must annually file "LM-30" forms to disclose potential conflicts of interest.

Responding to an extensive wave of union corruption, the U.S. Congress

held hearings in 1959 that resulted in passage of the LMRDA. Also known as the Landrum-Griffin Act, the LMRDA requires that among other things, unions, their officers, and key employees must annually disclose situations where they or a family member may be personally profiting as a result of their union posts.

Penalties for willful violation of the LMRDA include up to a \$100,000 fine and up to one year in jail. Union officials may also be barred from holding office or even being a union employee for up to 13 years for violating the LMRDA.

Groundswell leaves no room for inaction on union boss self-dealing

In addition to urging DOL to vigorously enforce the LM-30 requirement,

see AFL-CIO, page 7

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Foundation Helps Home Care Providers Reclaim \$8 million

Union bosses press new forced unionism tactic against helpers of aged and disabled

LOS ANGELES, CA – Checks have been mailed to more than 97,000 Foundation-assisted Los Angeles County home care providers as part of a settlement requiring union officials to rebate nearly \$8,000,000 in illegally seized compulsory union dues. The rebates are the result of Service Employees International Union (SEIU) Local 434B officials unlawfully forcing home care providers to pay for politics.

Just as importantly, the Foundation victory has helped to shine light on a insidious national scheme hatched by union organizers to skim hundreds of millions of dollars off the top of taxpayer-funded welfare programs.

In 1999, Los Angeles county officials gave SEIU union officials monopoly bargaining power over citizens who provide non-medical in-home support services to disabled low-income clients. Although the workers are reimbursed through federal and state Medicare and Social Security funds, they were never considered public employees until a Big-Labor-backed law change in late 1999. Until then, they were considered to be

Contrary to Big Labor propaganda, home care providers are often just helping out an elderly family member or loved one—and don't consider themselves "employees" at all.



independent contractors because they were hired, fired, and supervised by the individual recipients of home care.

But under the new California law, home care providers are deemed “public employees” for bargaining purposes only, even though the so-called collective bargaining agreement does virtually nothing more than require these workers to pay compulsory union dues. Since the “employer of record,” an entity called Personal Assistance Services Council (PASC), has no authority over hiring, firing, work schedules, workplace safety, or disputes with the employer-recipient, there was virtually

nothing left to be “negotiated” through a monopoly bargaining agreement—and therefore no supposed “benefits” to home care providers.

Carla West, the lead plaintiff in the case, is a single black woman caring for her elderly mother. She is a typical example of a home-care provider, who is often a family member or friend that cares for an aging or disabled loved one. While West doesn't consider herself an “employee,” she does count on the state reimbursements to help make ends meet—and therefore resents that union officials are taking a chunk of the money that should be going towards her mother's care.

Foundation helps California home care workers thwart union hierarchy

Unfortunately, the U.S. District Court did not agree with arguments that the entire scheme was unconstitutional. However, it did allow a claim that union officials charged excessive dues to go forward. Foundation attorneys then began a settlement process in December 2002. Originally thought to involve only 60,000 rather than nearly 100,000 individuals, the rebates, originally estimated at \$5 million, actually total between \$7.5–\$8 million.

“This settlement is an incremental yet important step towards holding union officials in California accountable for how they collect and spend compulsory union dues,” said Ray LaJeunesse, Vice President and Legal Director of the National Right to Work Foundation. “However, the ultimate solution to this sort of abuse is to end union officials' government-granted privileges to force employees to pay union dues or be fired

see **HOME CARE**, page 8

Foundation Action

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Foundation Battles Forced-Dues-for-Politics on Multiple Fronts

Right to Work defends Bush executive order while pressuring NLRB bureaucrats

WASHINGTON, DC – In the national battle to defend workers from union shakedown schemes which funnel hundreds of millions of forced-dues dollars to pay for partisan politics, National Right to Work Foundation attorneys are leading and moving forward aggressively on multiple fronts.

In June, the United States Department of Labor (DOL) announced that it will step up enforcement of President Bush's 2001 executive order curbing forced union dues for politics—an order successfully defended against union legal attacks with the help of Foundation attorneys.

DOL notified federal contractors that it will be spot-checking federal workplaces to ensure that they are in compliance with the order.

While Executive Order 13201 affects only a small segment of the 12 million American employees compelled to pay union dues as a condition of employment, it will require federal contractors to post notices informing workers of their rights under the Foundation-won Supreme Court decision in *CWA v. Beck*. The notice highlights specifically their right to resign from formal union membership and reclaim all forced union dues used for politics.

Since Foundation attorneys won the *Beck* ruling at the U.S. Supreme Court in 1988, union officials have fought tooth- and-nail to keep employees in the dark about their rights and to stonewall employees attempting to reclaim their forced dues.

Brewery worker's case exemplifies enforcement challenges

Unfortunately, the Labor Department's modest step forward is overshadowed by fecklessness in the National Labor Relations Board (NLRB) bureaucracy. As the agency tasked with enforcing the *Beck* decision, NLRB inaction has left millions of American workers virtually defenseless when it comes to asserting their right not to fund union politics.

One recent example of the NLRB's ineffectiveness came when an employee of Anheuser Busch had to file a *fifth* round of federal charges against a recalcitrant Teamsters union local in California for threatening to seek her termination while repeatedly failing to properly calculate and disclose how workers' forced union dues are spent.

Catherine Anderson, a part-time employee at Anheuser Busch's Fairfield, California facility, filed unfair labor practice charges at the NLRB with free legal aid from the Foundation.

For two years, Teamsters Union Local 896 officials have refused to provide Anderson with adequate audited financial disclosures about their spending, and the spending of their affiliates, as required by law and as promised in an earlier settlement with NLRB prosecutors.

Facing federal charges filed by Anderson and a co-worker in July 2003, September 2004, October 2004, and February 2005, Teamsters union offi-

To many, the Teamsters logo has been a symbol of violence and corruption for decades.



cially settled the cases after supposedly agreeing to properly inform workers of their right to refrain from financially supporting the union's political and ideological causes.

This April, however, Anderson faced the most recent attempt by the union hierarchy to skirt around its legal obligations—audit reports that claim 96.06% of union dues money was spent on “collective bargaining” costs. Not only is some of this information hopelessly out of date, but Teamsters officials also continue to claim that 100% of union staff salary and overhead costs are chargeable to non-members, even though the disclosure shows that staff time was devoted to non-chargeable activities.

When thorough and accurate examinations are done, courts usually find significant portions—as high as eighty percent of union dues—are spent on non-chargeable activity.

“The refusal of this arrogant Teamsters hierarchy to live up to its
see TEAMSTERS, page 6



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Union Officials Retreat After Abusing Rights of Caregivers

Buckeye State citizens repeatedly trampled by forced unionism

CINCINNATI, OH – Foundation attorneys recently beat back an attempt by Ohio union officials to unlawfully seize forced dues from the paychecks of caregivers to the mentally disabled.

Agreeing with charges filed by National Right to Work Foundation attorneys, the National Labor Relations Board (NLRB) agreed to prosecute the United Food and Commercial Workers (UFCW) union for unlawfully coercing caregivers into paying union dues even though they had voted to ban forced union dues from their workplace.

Foundation attorneys originally filed unfair labor practice charges in April on behalf of ResCare, Inc. (Camelot Lake) employee Larry Richardson and all similarly-situated coworkers employed at the Fairfield, Ohio facility, which provides intermediate healthcare to the mentally disabled.

The charges pointed out that UFCW union officials unlawfully refused to allow caregivers to revoke union “dues check-off cards.” So-called “dues check-off cards” establish the automatic deduction of forced union dues from workers’ paychecks.

Facing this embarrassing prosecution, UFCW officials had no choice but to rescind their unlawful dues demands, and post notices throughout the Camelot Lake facility informing workers of their right to revoke union “dues check-off cards” at any time.

“UFCW union officials wanted to ignore the fact that Camelot Lake workers have rejected forced union dues,” said Foundation President Mark Mix. “For union bosses, it’s all about the money.”

UFCW officials refuse to honor workers’ wishes

The health care workers at Camelot Lake had successfully navigated the difficult path to exercising a right to deauthorize UFCW Local 1099 in an election held by the NLRB in March 2005.

The standard for this little-used right is significantly higher than union officials’ privilege of extracting forced dues.

Deauthorization removes the forced union dues clause from a contract, but does not remove the union hierarchy’s monopoly bargaining privileges.

After losing the deauthorization election, UFCW officials unlawfully

claimed that employees at Camelot Lake could not revoke the union “dues-check off cards” until the narrow window period. The window period was unique to each employee and based on the date the cards went into effect.

Big Labor sets sights on health care industry

In recent years, union organizers have identified the health care profession as an increasingly attractive target for forced unionization. They see imposing compulsory unionism on the medical industry as a way to increase membership, political clout, and their already overflowing forced-dues treasure chest at taxpayer expense. Forced unionism in the medical field has had devastating consequences and is contributing a large part to the

growing instability of the profession. Nurses, home care providers, and other medical employees are increasingly facing interference from union bosses.

In some cases, caregivers are even ordered to abandon their patients to go on strike. Such employees are no longer able to make the patients in need of their care the top priority.

Furthermore, as union officials corral more workers from the medical profession into union ranks, they also actively pressure the government to institute inefficient reforms and increase its spending on health care. The union hierarchies involved receive a direct financial benefit when the government increases the taxpayer dollars spent on the industry. Increased regulations, government involvement, and rising costs associated with forced unionization have disrupted our health care system—and jacked up the costs of health care to all consumers.

“The Foundation continues to battle the disturbing trend towards forced unionism in the health care industry on every front possible,” says Mix. “Our strategic litigation program has been to slow the advances of the union brass in a number of cases, but clearly there is much to be done to rescue the health care industry from the clutches of compulsory unionism.”

In addition to helping Larry Richardson, this issue of *Foundation Action* also features articles highlighting the Foundation’s efforts to battle the Service Employee International Union’s controversial involvement with home care providers in California and elsewhere, and the Office and Professional Employees International Union’s abuse of nurses’ rights in Mount Clemens, MI. (See pages 2 & 5) 



When union officials order health care workers onto the picket line, patients are abandoned.

Union Must Retract Retaliatory Fines Against Nurses

Union officials withdraw threats against nurses who refused to abandon their patients



Four Mount Clemens General Hospital nurses defied union bosses' orders to leave their patients during a strike.

MOUNT CLEMENS, MI – In order to avoid federal prosecution spurred by National Right to Work Foundation attorneys the National Labor Relations Board (NLRB), union officials have retreated from their unlawful attempts to fine a group of nonunion nurses up to \$4,000 each for refusing to walk off the job and abandon their patients during a strike.

The victory came after Foundation attorneys, on behalf of four Mount Clemens General Hospital nurses who had been targeted for union retaliation, persuaded the NLRB to issue a formal complaint and prosecute the union for the unlawful threats.

OPEIU hierarchy strong-arms dissenting nurses

In August of 2004, Deborah Mounger, Cherie Jones, Kimberly Grifka, and Jennifer Pacyga sent letters to Local 40 of the Office and Professional Employees International Union (OPEIU) formally revoking their union memberships. After resigning from formal union membership, employees cannot be subjected to union rules and internal union discipline.

“I joined the union because I was told there wasn’t any other option,” said Mounger. “I was vocal about my belief that striking was wrong for nurses, then I found the NRTW website and learned

my rights under the law.”

Only after having officially resigned from formal membership in OPEIU did the four women return to their jobs during a union-ordered strike. In October, each woman received a letter stating union officials were filing internal charges against them. They were each threatened with fines of \$500 per charge, for totals of up to \$4,000 per person simply for loyally serving their patients.

The four nurses sought assistance from the Foundation, which aided them in filing unfair labor practice charges with Region Seven of the NLRB in Detroit, Michigan. Stephen M. Glasser, the Regional Director, agreed with Foundation attorneys’ arguments that the union should be prosecuted and issued a formal complaint against the OPEIU in January, 2005.

Foundation aids nurses in resisting union bullying

To cut their losses and settle the complaint filed by the NLRB, OPEIU officials gave up their attempt to collect the union fines. The four nurses have been notified that all possibility of a monetary fine for working during the strike has been rescinded, and union officials must conspicuously post a notice at the hospital informing other employees of the settlement.

“The vicious hostility displayed by union officials for the rights of caregivers to the sick and feeble is stunning,” said Stefan Gleason, Vice President of the National Right to Work Foundation. “It’s sickening to witness retaliation against health care

professionals simply because they refused to abandon their patients.”

The actions of the union hierarchy violated *NLRB v. Textile Workers*, a Supreme Court decision holding that it is unlawful for union officials to fine employees who resign during a strike and then return to work. Meanwhile, according to a Foundation-assisted Supreme Court victory, *Patternmakers v. NLRB*, workers may resign from union membership at any time, including during a strike.

“The union hierarchy’s disdain for the nurses’ freedom and economic security—to say nothing of their lack of concern for public health—shows they do not have employees’ best interests at heart,” said Gleason.

Nurses often targets for union officials

The plight of nurses in Mt. Clemens marks the second such instance of union officials threatening Foundation-assisted nurses in recent years. In 2002, another nurse faced the same situation in San Mateo, California. Barbara Williams, a nurse at Stanford Hospital, also refused

to abandon her patients during a union-ordered strike. Top union officers from the euphemistically named Committee for Recognition of Nursing Achievement (CRONA) hit Williams with a \$2,500 fine in retaliation.

Foundation attorneys assisted Williams by arguing that the fine was arbitrarily assessed, and that

the union’s own bylaws did not allow it. The San Mateo County Superior Court of California ruled that Williams did not have to pay the fine. 

“I was vocal about my belief that striking was wrong for nurses, then I found the NRTW website and learned my rights under the law.”

A Gentle Nudge

Most of us can use a nudge now and then to do something we know we should do—like writing or updating a will. Sometimes we find it easier to procrastinate, but some friendly encouragement is all it takes to get us moving in the right direction. If this describes you, consider this little article a nudge.

The reason we want to nudge you to obtain or update your will is because we have seen the difficulties that arise when a person dies intestate (without a will). We also know that some people who intend to include the National Right to Work Foundation or another charity in their estate plans fail to get their wish unless the bequest has been clearly stated in a valid will.

Writing or updating your will now also gives you the opportunity to plan for the different tax consequences that may arise. This area of the law can become complicated and is frequently evolving. A professional advisor can help you understand how your estate will be affected and develop a plan that fits your goals.

Another reason we want to gently prod you is because we know you will be glad when the chore is done. You will have peace of mind about the affairs of your estate.

One way we can assist you is to make things as easy as possible. Our complimentary Will Information Kit is designed to do just that. It contains basic information that helps you think through the various issues and prepares you for your visit with an estate-planning attorney. (If you don't have an attorney, we can help you locate one.)

The main thing is to attend to this extremely important matter while you are able to thoughtfully consider the options and make sound decisions.

To receive your free Will Information Kit, you may check off the appropriate box on the reply device enclosed with this newsletter, or you may call our planned giving specialist, Elisa Sumanski, at (800) 336-3600 x 3309, or e-mail her at plannedgiving@nrtw.org.

And finally, one more nudge—please do it today!



Keeping your will up to date is one of the most important things you can do to ensure your estate goes to the people you want.

Teamsters

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agreement—and the failure of the NLRB to hold union officials accountable—calls into question the purpose of the agency,” said Foundation Vice President Stefan Gleason. “The fact is that, without the Foundation and its financial supporters, workers wishing to assert their rights would be completely hung out to dry.”

The Foundation's legal aid program has helped hundreds of thousands of workers vindicate their rights, and the tide is turning increasingly against Big Labor and their special privileges. However, the difficulty in securing reliable enforcement of the *Beck* decision helps bolster the case for ending compulsory unionism altogether.

“The ultimate solution is to prevent the theft, rather than try to recover the stolen loot,” said Mark Mix, President of the National Right to Work Foundation and Committee. “That's why Right to Work forces are working to abolish compulsory unionism in all of its forms. Only then will workers truly be able to prevent the misuse of their hard-earned money.”

Free Newsletter

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They'll begin receiving issues within weeks.

AFL-CIO official felt heat for hypocrisy and LMRDA violations

continued from cover

Mix also appealed to Foundation supporters to call directly upon Secretary of Labor Elaine Chao to ensure the disclosure law is strictly enforced. Within weeks, DOL offices were flooded with a wave of postcards and letters from Foundation supporters demanding action.

Simultaneously, the Foundation publicized Shailor's failure to comply with federal disclosure law, and the hypocrisy of her connection to ethics attacks on DeLay. Facing potential DOL prosecution and an embarrassing public relations black eye, Shailor immediately scrambled to file an LM-30 form with DOL in early June.

More importantly, due, in part, to the efforts of the Foundation and its supporters, DOL has now signaled that it will place a renewed emphasis on enforcement of the LM-30 filing requirement.

"The refusal to grant union officials free rein when it comes to their interconnected financial dealings has assured workers nationwide a small measure of protection," stated Mix.



AFL-CIO Director of International Affairs Barbara Shailor (left), scrambled to submit long overdue financial disclosure forms. Her husband, radical activist Robert Borosage (right) has made allegations against Tom DeLay, while apparently overlooking his wife's own ethics problems.

Big Labor stonewalling on disclosure requirement is nothing new

In a related development, despite fierce resistance from union lawyers, a three-member panel of the U.S. Court of Appeals for the District of Columbia Circuit unanimously upheld the authority of DOL to heighten federal

union financial disclosure requirements. Agreeing with arguments made in an *amicus curiae* brief filed by Foundation attorneys, the panel determined that strengthening the reporting laws was well within Secretary Chao's authority.

The Department issued new regulations in October 2003 in response to an ongoing national epidemic of union corruption. This revision in the basic union disclosure requirements was the first such reform in over four decades.

"This ruling affirms that not only did Secretary Chao have the authority to do what she did, but that she should have gone much further," said Mix.

"The Department now has no reason not to fix provisions that were watered down by political operatives as a result of foolish negotiations with union bosses. For example, an independent audit requirement should be inserted, the itemization threshold should be dropped from \$5000 to the more appropriate level of \$200, and union officials should be forced to disclose their organizing and electioneering expenditures in separate categories." 

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Home Care

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from their jobs.”

During the period for which rebates are being paid, SEIU union officials had failed to follow the Foundation-won Supreme Court decision in *Chicago Teachers v. Hudson*, which requires union officials to provide employees who are not union members but are forced to pay dues with an audited disclosure and advanced reduction of forced union dues used for politics and other non-bargaining activities. After months of delay, SEIU officials produced an audit showing that a mere 48 percent of union dues are spent for collective bargaining. Nonmember home care providers now pay less than half of what union members pay in dues.

Forced unionization scam targets American workers, taxpayers

The California home care workers' struggle is just one example of a larger, ominous trend, and it represents the latest in a long line of union-boss maneuvers designed to fill the already deep pockets of the union hierarchy at the expense of American workers and taxpayers. The SEIU union has used this particular forced unionism scheme to target home-care workers in other states, including Oregon, Washington, Illinois, Michigan, and most recently, Rhode Island.

While the \$8,000,000 Foundation settlement represents an important victory, it is only a first step in efforts to stem the tide.

“SEIU officials have turned California's home care subsidy program into a major Big Labor cash cow, and now they are taking the show on the road,” stated LaJeunesse. “Foundation attorneys are on the lookout for new cases which may provide an opportunity to shut down this scam.”



Message from Mark Mix

President
National Right to Work
Legal Defense Foundation

Dear Foundation Supporter:

When President Bush took office in 2001, one of the first concrete steps he took in defense of worker freedom was to issue Executive Order (EO) 13201.

EO 13201 requires federal contractors to post notices informing workers of their Right to Work Foundation-won rights under the Supreme Court's *CWA v. Beck* ruling. The *Beck* ruling establishes that workers may resign their formal union membership and reclaim all forced union dues spent on activities other than collective bargaining, such as political expenditures.

Issuing EO 13201 was a step in the right direction, though hardly revolutionary. In fact, it merely reinstated a sensible policy first adopted when Bush's father was President. Of course, Bill Clinton — caving in to union boss demands — had overturned this modest protection for workers as soon as he entered office.

Hostile union lawyers attacked EO 13201 in the federal courts as soon as it was issued. Foundation attorneys, as the recognized experts in this area of the law, filed a brief in support of the President's action. After a hard-fought battle, the courts ultimately agreed with our position.

With the legal obstacles out of the way, the U.S. Department of Labor is now promising to step up enforcement of President Bush's Executive Order. This is good news, at least symbolically, *but the Administration needs to do far more and do it soon.*

The first priority should be to make sure the National Labor Relations Board (NLRB) has a solid majority of pro-freedom appointees prepared to work with a new General Counsel to defend workers' rights.

So far, we have heard encouraging rhetoric from the Administration, but we have not yet seen needed action that directly confronts Big Labor and its powerful allies in the NLRB bureaucracy.

The time for talk is over. The time for action is now.

Bringing sweeping change to the NLRB will be a real test of whether the Administration is serious about finally putting labor law back on the side of employees rather than of union bosses.

Thanks for all you do to help!

Sincerely,

Mark Mix