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February 9, 2009

Denise M. Boucher
Director of the Office of Policy, Reports and Disclosure
Office of Labor-Management Standards (OLMS)
U.S. Department of Labor
200 Constitution Ave., N.W.
Room N-5609
Washington, DC 20210

RE: Proposed Delay of Modest Efforts to Increase Union Transparency, RIN 1215-AB62

Dear Director Boucher:

The National Right to Work Legal Defense Foundation, Inc. ("Foundation") is a charitable, legal aid organization formed to protect the Right to Work, freedoms of association and speech, and other fundamental liberties of ordinary working men and women from infringement by compulsory unionism. Through its staff attorneys, the Foundation aids employees who have been denied or coerced in the exercise of their right to refrain from collective activity.

Today, Foundation attorneys are representing tens of thousands of employees in more than 200 cases nationwide.

The Foundation's staff attorneys have served as counsel to individual employees in many Supreme Court cases involving employees' right to refrain from joining or supporting labor organizations, and thereby have helped to establish important precedents protecting employee rights in the workplace against the abuses of compulsory unionism. These cases include: Davenport v. Washington Education Ass'n, No. 05-1589 (U.S. argued Jan. 10, 2007); Air Line Pilots Ass'n v. Miller, 523 U.S. 866 (1998); Lehnert v. Ferris Faculty Ass'n, 500 U.S. 507 (1991); Communications Workers v. Beck, 487 U.S. 735 (1988); Chicago Teachers Union v. Hudson, 475 U.S. 292 (1986); Ellis v. Railway Clerks, 466 U.S. 435 (1984); and Abood v. Detroit Board of Education, 431 U.S. 209 (1977).

I am writing to urge you to prevent delay in implementation of final rule RIN 1215–AB62 regarding Labor Organization Annual Financial Reports. At a time when many are questioning the perks and special benefits of corporate executives, this is not a time to continue the concealment of union executive perks and benefits. During this tight economy, the rule that the Obama White House intends to delay provides union members and non-members who are forced to pay union fees as a condition of continued employment with valuable information about union officers' use of their money.

Rule in Question has Significant Benefits

Following are examples of disclosure union members will gain from the minor changes in the new reports:

- The Machinists' union spends millions per year on its LearJet, but the actual cost of each flight that a union boss takes on the LearJet is not associated with that person's name.

  The Machinists' LearJet flew from Canada to Ireland on November 16, 2008. Machinists' members and forced dues payers who are struggling financially or who were laid off have the right to determine if a union official's jetting around on union dues is appropriate. Employees need the disclosure that the Obama Administration is delaying before they can know how their dues are used. In 2006, **the Machinists reported spending $1.8 million for hangars, jet fuel,** jet maintenance, mechanics, pilots, and associated loan repayments. The Final Rule that the Obama Administration desires to postpone will allow the ordinary unionized worker to know how much this and other flights by union bosses cost the union on a per-union-official basis, or at least, the aggregated sum that each union officer cost the union.

- In 2005, the Michigan Plumbers Local 98 disbursed **$491,252 for nine fulltime officers' "Officer's Union Fringes."** The labor union's nine officers' average annual fringe benefit was $54,583. This part of the officers benefit package virtually doubled their average annual salary of $61,648 to a **combined average of $113,231 per year**. Under the rule that the Obama Administration wants to delay, workers will know how much each officer is actually paid and if it complies with the union constitution.

Tabling of New Disclosure Rule Creates Appearance of Impropriety

The decision to seek this delay appears to be based on a "Jan. 20 memorandum from President Obama's chief of staff, Rahm Emanuel, advising agencies to consider extending for 60 days the effective date of regulations" (BNA 2/2/2009). The memorandum from the former Democratic Congressional Campaign Committee (DCCC) chairman to request this delay and thus extend the concealment of the special benefits to union officers is questionable. While Emmanuel was in charge of the DCCC, his committee received over $1.1 million directly from labor union management. Chief of Staff Emmanuel's request to delay disclosure of perks and benefits to the same union management that paid his committee $1.1 million and spent more than $300 million to elect Barack Obama creates an appearance of impropriety that alone should prevent this action.

The Service Employees International Union (SEIU) provides an excellent example of possible conflict. SEIU recently expelled officer Tyrone Freeman who used union dues for his personal advantage; information that was disclosed on the LM-2 reports led to Freeman's downfall. Rank-and-file employees do not know what kind of benefits package Freeman had set up for himself; but they would under the forms that the Obama Administration plans to delay. In 2007, Freeman's SEIU local, "the largest SEIU local in California," reported that it had 62,817 fee payers. **62,817 people were forced to pay hard-earned money to Freeman as a condition of employment**. They deserved to know how Freeman spent their money and now how his successor is spending it.

In the 2008 presidential election, **SEIU spent $27 million** from its PAC funds (CNSNews.com 12/18/2008) to help elect President Obama. The SEIU leadership has consistently opposed allowing employees to have useful union financial disclosure. Now President Obama and Chief of Staff Emmanuel owe their new positions in large part to the millions spent by SEIU officials and labor union officials. During the campaign, Obama said that he and SEIU are long time allies from his days as an organizer.

> "**You will know who's on your side**, because I've been at this a long time. **I've spent my entire adult life working with SEIU**. I'm not a newcomer to this. I didn't just suddenly discover SEIU on the campaign trail. Oh, really, you all organized? Oh, you wear purple, do you, really? No, I've been there; done that. So we all know what we need to do to reverse the anti-labor policies of this administration ... I've been working on behalf of working Americans for my entire adult life, for over two decades now, as a community organizer, a civil rights lawyer, a state senator, a constitutional law professor, as a United States senator ..."
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> "... That's what you did with me in 2004, because **I probably wouldn't be standing here if it hadn't been for the SEIU endorsement** back then and the fact that all these folks sitting here right here, they walked doors for me, they made phone calls for me, they turned out the vote for me ..."
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> "... Before immigration debates took place in Washington, I talked with Alcea Medina (ph) and SEIU members. Before the EFCA, I talked to SEIU. So we've worked together over these last few years, and I'm proud of what we've done. **I'm just not satisfied, because I know how much more we could accomplish as partners in an Obama administration**." **(Emphasis added)**
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> (Sen. Obama's remarks to the SEIU Political Action Conference, source: FDCH, 9/17/2007)

Compliance Costs Nominal; Benefits Valuable

The minor disclosure changes required by these new rules require insignificant internal accounting changes. Essentially a few receipt categories were added, benefits now will go next to officers' names (unions already do this for IRS 990 tax reports), and unions will be required to disclose who actually bought union property. For example, **local UAW dues paid $18,000 for a John Deere tractor that union officers sold in the same year for only $678.** The rule that the Administration is attempting to stifle will disclose the person who paid only $678 for the $18,000 tractor.

These minor ledger adjustments required by the Final Rule should be of no consequence to all LM-2 filers. In addition, the new regulation allows the Secretary to require recalcitrant LM-3 filers to file LM-2 reports. By filing LM-3 reports on time, LM-3 filers will avoid this reporting action. Therefore, the accounting changes created by the rule are *insignificant*; on the other hand, the disclosure value to union members is *very significant* and may determine future union election results.

Willy-Nilly Policy Not the Best Policy

Finally, we presume that OLMS and its legal team at the Division of Civil Rights and Labor-Management provided proper notice and comment **during the 365 plus days of the rulemaking discussions, including two meetings with union attorneys.** The Foundation was not invited to these special meetings as mentioned in the public notice regarding this rule.

> "**In August and September of 2007, Department officials met with representatives of the community that would be affected by the proposed changes, including officials of labor organizations and their legal counsel,** to hear their views on the need for reform and the likely impact of changes that might be made. The Department developed its proposal with these discussions in mind and it requests comments from this community and other members of the public on any and all aspects of the proposal."
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> (Federal Register /Vol. 73, No. 92 /Monday, May 12, 2008 / Proposed Rules p. 27347)

Without any evidence of process failure, it seems a waste of taxpayer-financed time and money to just willy-nilly postpone a regulation that provides valuable information to the millions of Americans who have chosen or have been forced to pay union fees.

Conclusion

While ending force unionism is the best solution to this problem of union accountability, we can see no benefit to taxpayers nor to the millions of members and forced union dues payers affected by this delay proposed by the Obama Administration.

Sincerely,

Mark A. Mix
President