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June 16, 2009

***Via Electronic Mail (Ronald.Meisburg@nlrb.gov)
and UPS Overnight Delivery***

Ronald Meisburg, General Counsel
Office of General Counsel
National Labor Relations Board
1099 14th Street, NW, Room 10214
Washington, D.C. 20570

**Re: Enclosed Unfair Labor Practice Charges
Bank of America and Service Employees International Union
Request for Permission to File Directly in Washington, D.C.**

Dear Mr. Meisburg:

I write as counsel for the National Union of Healthcare Workers (NUHW) regarding the two related unfair labor practice charges which I enclose: a charge under § 8(a)(2) of the Act against Bank of America, and one under § 8(b)(1)(A) of the Act against the Service Employees International Union (SEIU). For the reasons which I will detail below, we believe it would, pursuant to 29 C.F.R. § 102.33, “effectuate the purposes of the Act” and “avoid unnecessary costs or delay” for you to allow the charge to be filed directly with you in Washington, D.C. As you may know, the respondent SEIU is headquartered in Washington, D.C. Further, because the scope of this charge is national in character, we believe that it may most effectively be investigated and resolved through the General Counsel’s office directly in Washington. In order for you to understand the basis of this request, I will briefly outline the basic facts as we understand them.

Brief Outline of the Facts

It has recently become apparent to us through such sources as the SEIU’s most recently filed LM-2, and articles in the press such as the *Wall Street Journal*, that the SEIU has an ongoing financial relationship with the Bank of America whereby the Bank of America provides financial assistance to the SEIU in the form of credit. As best can be determined, this credit includes an

Ronald Meisburg, General Counsel
June 16, 2009
Page 2

ongoing line of credit which can be drawn upon at will by the SEIU, and which has been drawn upon by the SEIU recently. According to a recent editorial in the *Wall Street Journal*, the credit extended by the Bank of America to the SEIU is nearly \$88 million.

At the same time, since at least 2007, the SEIU has announced its intention to organize tellers employed by the Bank of America and has taken steps to do so. Thus, the Bank of America is an employer with whom the SEIU has “a potential employer-employee relationship.” (See Office of the General Counsel Advice Memorandum 12.21.06, fn.15.)

Clearly, the extension of credit is a form of “financial assistance” which is prohibited by § 8(a)(2) of the Act. Indeed, in another portion of the Act, § 302 (29 U.S.C. § 186), it is identified as a criminal act for “any employer ... to pay, lend, or deliver, or agree to pay, lend, or deliver, any money or other thing of value -- to any labor organization ...” It is difficult to imagine that one section of the Act could specifically prohibit this transaction, and yet that it would not be a form of prohibited “financial assistance” under § 8(a)(2).

Further, while the above-quoted General Counsel Memorandum makes it clear that a § 8(a)(2) violation may not lie where there is no employer-employee relationship or potential one, the facts here are that there is a potential one because the SEIU is seeking to organize Bank of America tellers at the same time that this credit is extended and this financial assistance is being proffered. The impact of this relationship is severe on all SEIU members as well, in particular on SEIU members who support organizing by the NUHW and seek elections so that their choice may be heard.

SEIU members are in danger of engendering a corrupt employer-employee relationship between the Bank of America and SEIU where the very harm that § 8(a)(2) was enacted to prevent, “an employer ... bargaining on both sides of the table” (General Counsel Memorandum 12.21.06, p. 11) would be achieved if SEIU was successful in organizing the Bank of America.

NUHW members currently employed in SEIU bargaining units also suffer as a result of the Bank of America’s financing of the SEIU. The SEIU is financially enabled to engage in a campaign of intimidation against such employees who seek only a free choice of union representative, while remaining currently in SEIU-represented bargaining units. For example, on May 31, SEIU Executive Vice President Dave Regan stated before hundreds of SEIU staff that the intent of the SEIU was “to drive a stake through the heart of this thing that is NUHW” and that SEIU wanted “to put them in the grave and bury them.” This campaign of intimidation against NUHW adherents seeking to exercise their § 7 rights in bargaining units currently represented by the SEIU is financed, at least in part, by financial assistance from the Bank of America to the SEIU.

Because of the seriousness of these allegations, and their national implications, we believe it would best effectuate the purpose of the Act for your office to assume responsibility for the

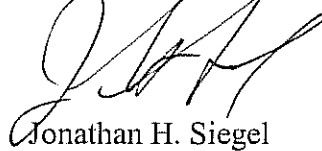
Ronald Meisburg, General Counsel
June 16, 2009
Page 3

investigation of these matters.¹ Please let me know as quickly as possible what your position is on this, so that we may take appropriate actions in response.

Finally, we do request that during the processing and investigation of these charges, the NLRB block all election proceedings in which the SEIU is the petitioner.² The NLRB has blocked all elections sought by the NUHW in the face of similar but much less serious and substantial allegations which do not involve an employer who is an organizing target of the NUHW, do not involve the direct transfer of funds from the employer to the affected labor organization, and involve at most a nominal amount of funds compared to those involved in these matters. Thus, we would request that even-handedness, especially in light of these facts, would suggest that all SEIU elections be blocked until you have reached a determination of these matters.

Thank you for your attention to this correspondence. Please contact me to supply further information and provide further assistance.

Very truly yours,



Jonathan H. Siegel

JHS/rb
Encl.

cc: Sal Rosselli, President NUHW (via e-mail) (w/encl.)
John Borsos, NUHW (via e-mail) (w/encl.)
John Vellardita, NUHW (via e-mail) (w/encl.)
Emily Gordon, NUHW (via e-mail) (w/encl.)
Fred Seavey, NHW (via e-mail) (w/encl.)
Latika Malkani, Esq. (w/encl.)
Dan Siegel, Esq. (via e-mail) (w/encl.)

¹ Of course, a thorough investigation by the NLRB will be necessary to establish all relevant facts. Our experience of the Board on much less serious, but similar, matters has been that the Board very thoroughly investigates them and makes substantial demands for information from the charged parties. We, of course, expect that allegations of the gravity of those contained herein will be treated at least as seriously. In particular, we would suggest you investigate why the Bank of America's LM-10s do not reference these transactions and why part of these funds were advanced to allow SEIU to purchase real estate but the loan was nonetheless "unsecured."

² To be clear, we do not, of course, request blocking of charges where the NUHW is the petitioner, as this would further the SEIU's Bank of America-financed strategy of denying free choice to tens of thousands of employees.

INTERNET
FORM NLRB-501
(2-08)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER**DO NOT WRITE IN THIS SPACE**

Case

Date Filed

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT	
a. Name of Employer Bank of America Corporation	b. Tel. No. 704-386-5681
	c. Cell No.
	f. Fax No. 704-386-6699
d. Address (Street, city, state, and ZIP code) 100 North Tryon Street, Bank of America Corporate Center Charlotte, NC 28255	e. Employer Representative Kenneth D. Lewis, President and CEO
	g. e-Mail
	h. Number of workers employed
i. Type of Establishment (factory, mine, wholesaler, etc.) Bank	j. Identify principal product or service Financial services
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) 8(a)(2) _____ of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.	
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)	
Within the last six months and continuing through the present, the Bank of America, by and through its agents, has contributed prohibited financial or other support to a labor organization, the Service Employees International Union (SEIU), and has thereby interfered with the administration of that organization. Further, Bank of America has interfered with the activity of the National Union of Healthcare Workers by financing the activities of the SEIU directed at the NUHW. Bank of America has extended such prohibited financial support despite knowing it is a target of organizing by the SEIU.	
3. Full name of party filing charge (if labor organization, give full name, including local name and number) National Union of Healthcare Workers	
4a. Address (Street and number, city, state, and ZIP code) 519 - 17th Street, Suite 560 Oakland, CA 94612	4b. Tel. No. 510-834-2009
	4c. Cell No.
	4d. Fax No. 510-834-2019
	4e. e-Mail
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) N/A	
6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.	
By _____ (signature of representative or person making charge)	Jonathan H. Siegel, Attorney (Print/type name and title or office, if any)
	Tel. No. 510-452-5000
	Office, if any, Cell No.
	Fax No. 510-452-5004
	e-Mail jsiegel@sl-employmentlaw.com
Address Siegel&LeWitter1939 Harrison Street #307, Oakland, CA 94612	6/16/09 (date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**PRIVACY ACT STATEMENT**Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
**CHARGE AGAINST LABOR ORGANIZATION
OR ITS AGENTS**

DO NOT WRITE IN THIS SPACE	
Case	Date Filed

INSTRUCTIONS: File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT			
a. Name Service Employees International Union (SEIU)		b. Union Representative to contact Andrew L. ("Andy") Stern, President	
c. Address (Street, city, state, and ZIP code) 1800 Massachusetts Avenue N.W. Washington, D.C. 20036		d. Tel. No. 202-730-7000	e. Cell No.
		f. Fax No.	g. e-Mail
h. The above-named organization(s) or its agents has (have) engaged in and is (are) engaging in unfair labor practices within the meaning of section 8(b), subsection(s) (list subsections) <u>8(b)(1)(A)</u> of the National Labor Relations Act, and these unfair labor practices are unfair practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.			
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)			
<p>Within the last six months and continuing through the present, SEIU has restrained and coerced employees in the exercise of their Section 7 rights by accepting financial and other forms of support from statutory employers. Because SEIU, a labor organization, has relied on this support, including approximately \$88 million in credit from the Bank of America, in its administration and activities, SEIU is a labor organization dominated by employers.</p> <p>Further, SEIU has accepted and currently relies on financial support from employers whom it has designated as organizing targets, which interferes with and unlawfully impacts its functions as a labor organization committed exclusively to the protection and advancement of employees SEIU purports to represent and seeks to represent.</p>			
3. Name of Employer Bank of America Corporation 100 North Tryon Street, Bank of America Corporate Center Charlotte, NC 28255		4a. Tel. No. 704-386-5681	b. Cell No.
		c. Fax No. 704-386-6699	d. e-Mail
5. Location of plant involved (street, city, state and ZIP code) Nationally		6. Employer representative to contact Kenneth D. Lewis, President and CEO	
7. Type of establishment (factory, mine, wholesaler, etc.) Bank	8. Identify principal product or service Financial services	9. Number of workers employed Approx. 234,000	
10. Full name of party filing charge National Union of Healthcare Workers (NUHW)		11a. Tel. No. 510-834-2009	b. Cell No.
		c. Fax No. 510-834-2019	d. e-Mail
11. Address of party filing charge (street, city, state and ZIP code.) Jonathan H. Siegel, Siegel & LeWitter, 1939 Harrison Street, Suite 307, Oakland, CA 94612			
<p style="text-align: center;">12. DECLARATION</p> <p>I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.</p> <p>By <u>Jonathan H. Siegel, Attorney</u> (signature of representative or person making charge) (Print/type name and title or office, if any)</p> <p style="text-align: center;">Siegel & LeWitter, 1939 Harrison Street, Suite 307 Address <u>Oakland, CA 94612</u> (date) <u>6/16/09</u></p>		<p>Tel. No. <u>510-452-5000</u></p> <p>Cell No.</p> <p>Fax No. <u>510-452-5004</u></p> <p>e-Mail <u>jsiegel@sl-employmentlaw.com</u></p>	

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