HR POLICY ASSOCIATION®
The Association of Chief Human Resource Officers

April 22, 2011

The Honorable Tom Harkin
Chairman
Committee on Health, Education, Labor and Pensions
428 Senate Dirksen Office Building
Washington, DC 20510

The Honorable Mike Enzi
Ranking Member
Committee on Health, Education, Labor and Pensions
428 Senate Dirksen Office Building
Washington, DC 20510

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

The Honorable George Miller
Ranking Member
U.S. House Committee on Education and the Workforce
2181 Rayburn House Office Building
Washington, D.C. 20515

RE: Issuance of Complaint Against The Boeing Company by Acting NLRB General Counsel Lafe Solomon

Dear Sirs:

We are writing to express the strong concerns of the members of HR Policy Association regarding the issuance of a complaint by National Labor Relations Board Acting General Counsel Lafe Solomon against The Boeing Company based on the company's attempt to have an honest, open discussion with its union regarding the location of a new line of production. HR Policy Association is the lead public policy organization of chief human resource officers from large employers. HR Policy Association consists of over 300 of the largest corporations doing business in the United States and globally, many of whom have significant union representation of their U.S. employees. Collectively our members employ more than 10 million Americans and have a market capitalization of more than $7.5 trillion.

As we understand the facts in the case, it involves a decision by Boeing to open a second line of production of its 787 Dreamliner airplane. The decision involved no transfer of existing work or any loss of work by its employees in the State of Washington who are represented by the International Association of Machinists (IAM). The new work was to either be located in

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Washington or at a new facility in South Carolina. Since it was new work, the company had a clear right under both the National Labor Relations Act and its contract with the IAM to put the work in either location. However, the company decided nevertheless to discuss with the union whether agreements could be achieved that would make it economically feasible to locate the new work in Washington. Thus, it held extensive discussions in which the company expressed its legitimate concerns about a history of work stoppages which could be economically devastating going forward. The company sought to address these with a long-term contract that contained a no strike clause, a common feature of most labor agreements. When these negotiations stalled, the company decided to locate the work in South Carolina, with labor stability being one of several factors.

The issuance of a complaint by Acting General Counsel Lafe Solomon is disturbing on a number of counts. First, it is an unprecedented departure from long-standing law in this area. Second, it has been taken by someone who is a placeholder for a Presidential appointment provided for by law, someone who has not been confirmed by Congress nor even appointed by the President on a recess basis. He is simply a career employee holding the position in an acting capacity, while his nomination is pending in Congress.

Yet, even more disturbing is the fact that, at a time when companies doing business in the U.S. are engaged in intensive competition on a global scale, a company would be sanctioned for engaging in open and honest discussions with its union about economic realities. If anything, the NLRB should seek to ensure that employers and unions are able to speak freely with each other, consistent with their rights under Section 8(c) of the National Labor Relations Act. Any failure by the Board to protect those rights can only further harm the larger economic interests of all Americans.

Therefore, we urge you to ask Mr. Solomon to either provide an adequate explanation as to why his decision is fully consistent with existing law or withdraw the complaint.

We appreciate your attention in this matter.

Sincerely,

Daniel V. Yager
Chief Policy Officer & General Counsel