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May 5, 2011

Lafe E. Solomon
Acting General Counsel
National Labor Relations Board
1099 14th Street, N.W.
Washington, D.C. 20570

Dear Acting General Counsel Solomon:

The National Labor Relations Board's (NLRB) recent action against The Boeing Company is deeply troubling. Although the facts of the case are still in dispute, its eventual outcome could have significant consequences for job-creators and workers. In light of the potential impact on the nation's workforce, apparent inconsistencies surrounding the NLRB's April 20, 2011 complaint merit further explanation.

As you are aware, on March 26, 2010, the International Association of Machinists and Aerospace Workers District Lodge No. 751 filed a charge with the NLRB claiming Boeing violated sections 8(a)(3) and 8(a)(1) of the National Labor Relations Act (NLRA). Central to the charge is Boeing's decision to locate a second 787 Dreamliner assembly line in Charleston, South Carolina. The complaint references alleged statements made by Boeing officials between October 2009 and March 2010 that work stoppages were one reason for choosing the new location.

When asked about the charge in June 2010, the NLRB regional director Richard Ahearn told *The Seattle Times* "it would have been an easier case for the union to argue if Boeing had moved existing work from Everett, rather than placing new work in Charleston."[1] He was also unable to point to any "bright line" rule to determine whether the company's actions violated the law.[2] Finally, the regional director stated "an initial ruling is weeks away."[3]

More than 10 months later on April 20, 2011, Mr. Ahearn issued a complaint. In contrast to previous statements, he now alleges Boeing "transferred" work from Washington.[4] According to the regional

[1] Gates, Dominic, *Machinists file unfair labor charge against Boeing over Charleston*, The Seattle Times, June 4, 2010. Available at http://seattletimes.nwsource.com/html/businesstechnology/2012034258_boeing05.html.
[2] *Id.*
[3] *Id.*
[4] *Complaint and Notice of Hearing: The Boeing Company and International Association of Machinists and Aerospace Workers District Lodge* 751, Case 19-CA-32431, Page 5.

director, the transfer of the assembly line in conjunction with alleged comments made by company officials violates the NLRA.[5]

While we understand that no union employee at the Puget Sound facility has lost his or her job or been financially harmed by what appears to be a legitimate business decision, the NLRB is seeking an extraordinary remedy that requires Boeing to relocate its operations across the country.[6] This would have a detrimental impact on the economy and workers of South Carolina, as well as have a chilling effect upon businesses across the country.

The pivot in position by NLRB officials, as well as the unusual timing, raises serious concerns that warrant congressional inquiry. To better understand the appropriateness and evolution of this complaint, provide the following no later than May 19, 2011:

1. A description of what transpired between June 2010 and April 2011 that led the NLRB to alter its opinion in this matter;

2. All documents and communications between the NLRB Region 19 office and the NLRB National office addressing the Boeing complaint;

3. All documents and communications that support the NLRB's position that work is being "transferred" in this case; and

4. Past precedent that supports a finding that Boeing violated sections 8(a)(3) and 8(a)(1) of the NLRA when it decided to locate, not transfer, a second assembly line.

Thank you for your cooperation in this matter. If you have any questions regarding this request, please contact Marvin Kaplan of the Committee staff at (202) 225-7101.

Sincerely,

John Kline
Chairman
Education and the Workforce Committee

Phil Roe, M.D.
Chairman
Subcommittee on Health, Employment, Labor and Pensions

cc: The Honorable George Miller, Senior Democratic Member, Education and the Workforce Committee

cc: The Honorable Robert Andrews, Senior Democratic Member, Subcommittee on Health, Employment, Labor, and Pensions

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[5] *Id.* at 6.
[6] *Id.* at 7-8.

Responding to Committee Document Requests

1. In complying with this request, you should produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.

2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.

3. The Committee's preference is to receive documents in electronic form (i. e., CD, memory stick, or thumb drive) in lieu of paper productions.

4. Documents produced in electronic format should also be organized, identified, and indexed electronically.

5. Electronic document productions should be prepared according to the following standards:

   (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.

   (b) Document numbers in the load file should match document Bates numbers and TIF file names.

   (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.

6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one *CD,* hard drive, memory stick, thumb drive, box or folder is produced, each *CD,* hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when they were requested.

8. When you produce documents, you should identify the paragraph in the Committee's request to which the documents respond.

9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.

10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.

11. If compliance with the request cannot be made in full, compliance shall be made to the extent possible and shall include an explanation of why full compliance is not possible.

12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.

13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.

14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

15. The time period covered by this request is included in the attached request. To the extent a time period is not specified, produce relevant documents from January 1, 2009 to the present.

16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.

17. All documents shall be Bates-stamped sequentially and produced sequentially.

18. Two sets of documents should be delivered, one set to the Majority Staff in Room 2181 of the Rayburn House Office Building and one set to the Minority Staff in Room 2101 of the Rayburn House Office Building.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email, regular mail, telexes, releases, or otherwise.

3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

4. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.

6. The term "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflect s, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.