

Mr. Andrew R. Davis
Chief of the Division of Interpretations and Standards
Office of Labor-Management Standards
U.S. Department of Labor
200 Constitution Avenue, NW
Room N—5609
Washington, DC 20570

Re: Notice of Proposed Rulemaking, LMRDA Persuader Reporting
RIN 1245—AA03

Dear Mr. Davis:

I am writing to request that the Department of Labor immediately withdraw the above-referenced Notice of Proposed Rulemaking. The proposed rule is completely unnecessary and would infringe on my rights as an employer, and my employees' rights, create further tension between labor and management and, most importantly, make it much harder for me to create jobs.

My understanding is that for over 50 years an employer that hires a third party, such as a consultant or lawyer, to influence employees about union organizing campaign is required to disclose such activity to the government. Further, third party, referred to as a persuader under the law, also has to report to the government, and that report must contain information about the persuasion activities and about all of persuader's other labor-related services and clients, even those that have nothing to do with "persuasion."

I also understand that the law excludes "advice" from the definition of persuasion, and that for five decades this exception has allowed businesses like mine to hire lawyers and consultants for advice about communicating with employees or rely on materials obtained through associations or seminars without triggering the reporting requirement.

The proposed new rules would virtually eliminate this advice exception. As a result, I, and any third party I hire, would need to report our otherwise confidential agreement when the third party—whether a consultant, lawyer, association or seminar presenter—provides me with materials I use for communication with employees, such policies or prepared speeches, or revises my drafts of such documents. This would be the case even if the consultant, lawyer, association or seminar presenter never actually interacts with the employees to be "persuaded." In fact, it seems in some cases, the so called "persuader" under the new proposal may know nothing about my company or employees, other than I someone from my company's management team has joined their association, attended a seminar or purchase their materials.

The proposed changes will effectively deprive me of my right to counsel, and increase the risk that, as someone not expert in labor law, I might unknowingly say or do something illegal in the course of a campaign. If by suggesting any revision to documents, speeches or policies a lawyer would suddenly be required to file government reports that include detailed information, including fee arrangements, about all other labor clients, I am certain that no lawyer will be willing to provide such advice to me. Or, if a lawyer reviews materials I have prepared and is limited to declaring that they do or do not violate the law, but unable to advise me about revisions without engaging in persuasion, I will be paying for useless advice.

Depriving me as an employer of legal representation is bad enough, but the proposed rule would force me to either say nothing at all, or to risk saying something inaccurate or even improper to my employees, simply because I will no longer be able to get advice on what to say. Either way, my ability to communicate with my employees about a subject crucial to them and to my business will be severely restricted, and my employees' right to hear both sides of the story will be virtually eliminated.

In conclusion, the proposed rule changes would deprive me of my right to free speech and to legal counsel, and would deprive my employees of the right to obtain balanced and informed input from both sides as they decide whether to vote for unionization. The new rules would harm my existing business and impair my ability to grow my business and create new jobs. For these reasons, I respectfully urge the Department of Labor to withdraw the proposed rulemaking in its entirety.

Respectfully submitted,