

OFFICE OF THE GENERAL COUNSEL

MEMORANDUM GC 98-13

November 5, 1998

TO: All Regional Directors, Officers-in-Charge,
and Resident Officers

FROM: Fred Feinstein, General Counsel

SUBJECT: Unfair Labor Practice Complaints
Issued March 3, 1998 – October 21, 1998

Section 3(d) of the Act grants to the General Counsel of the National Labor Relations Board "final authority, on behalf of the Board, in respect of the investigation of charges and issuance of complaints under section 10 [of the Act], and in respect of the prosecution of such complaints before the Board" See also National Labor Relations Board Memorandum Describing the Authority and Assigned Responsibilities of the General Counsel of the National Labor Relations Board, sec. 1.A., 20 F.R. 2175, effective April 1, 1955, amended in other respects, 23 F.R. 6966, effective August 25, 1958), 24 F. R. 6666, effective August 3, 1959, 26 F.R. 3911, effective May 15, 1961 ("The General Counsel of the Board has full and final authority and responsibility, on behalf of the Board, to accept and investigate charges filed,. . . to issue complaints and notices of hearing, to appear before Trial Examiners in hearings on complaints and prosecute as provided in the Board's rules and regulations, and to . . . file exceptions and briefs and appear before the Board. . .").

Under the general supervision of the Office of the General Counsel, Regional Directors are "empowered to . . . issue complaints in unfair labor practice cases; . . . and otherwise act in behalf of the General Counsel in the discharge of the statutory and delegated functions of that office." National Labor Relations Board Description of Organization and Functions, Sec. 203.1, 32 F.R. 9588, as amended by 37 F.R. 15956, 44 F.R. 34215, 47 F.R. 20888, 53 F.R. 10305 and 53 F.R. 23467. See also Section 101.8 of National Labor Relations Board Statements of Procedure, 29 C.F.R. 101.8.

During the term of my appointment as Acting General Counsel, March 3, 1998 – October 21, 1998, Regional Directors issued numerous unfair labor practice complaints on my behalf pursuant to the authority specified above. To my knowledge, Respondents in five of these cases¹ have challenged the validity of the complaints issued against them

¹ These cases are

Amarillo Trailways Bus Center, Inc., 16-CA-19006-1, et al.

Rural/Metro of Texas, L.P., 16-CA-19319-1, et al.

Miller Waste Mills, Inc. d/b/a RTP Co., 18-CA-14768

Contractors Labor Pool, 27-CA-15535

Albertson's, 27-CA-13390 et al.

on grounds that my appointment as Acting General Counsel was invalid. I am confident that this claim is without merit. Counsel for the General Counsel has responded, or will respond, in each of those cases outlining the legal basis for this view.

In addition, on October 22, 1998, President Clinton appointed me General Counsel, pursuant to his constitutional power to make recess appointments. In that capacity, I hereby ratify the Regional Directors' issuance of complaints in the cases listed in note 1, above, as well as Regional Directors' issuance of all other unfair labor practice complaints on behalf of the Acting General Counsel, pursuant to the authority specified above.

Although I believe that the complaints issued during my term as Acting General Counsel are valid, I have taken this action of ratifying outstanding unfair labor practice complaints in order to remove any question that has arisen or may arise regarding such complaints. If further questions arise, Regions should contact the Division of Advice.

F.F.

Release to the Public

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