

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
Office of Inspector General



SEMIANNUAL 
REPORT



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FINAL

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New York, Tuesday, April 13, 1937*

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WAGNER ACT HELD VALID



The Winner!

In a jubilant mood is New York's Senator Robert Wagner as he stands in his Washington, D. C., office and acknowledges the congratulations that poured in yesterday after the Supreme Court had upheld the constitutionality of the Wagner Labor Relations Act. Ruling on five test cases, the Court decided five times for the New Deal's "Magna Charta for Labor." In all save one, the vote was 5-4, Justice Owen J. Roberts' shift to the liberal block giving the New Deal its victory.

—Story p. 1; other pics. back page.

In The Center Fold of This Issue:

4-Page Special Supplement on the Court's 5 Decisions

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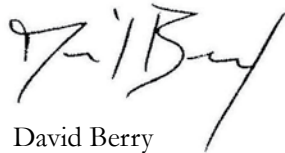
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EXECUTIVE SUMMARY

I hereby submit this Semiannual Report for the period April 1 – September 30, 2010. This report summarizes the major activities and accomplishments of the Office of Inspector General (OIG) of the National Labor Relations Board and its submission is in accordance with the Inspector General Act of 1978, as amended (IG Act). Section 5 of the IG Act requires that the Chairman transmit this report to the appropriate committees or subcommittees of the Congress within 30 days of its receipt.

In the audit program, the OIG issued one audit report and two inspection reports. In the investigations program, the OIG processed 137 contacts, initiated 5 cases, and closed 2 cases. Our investigative efforts resulted in one separation while the investigation was pending and one agreement for leave without pay in lieu of other disciplinary action. The OIG also referred three matters to the Department of Justice. Details on these accomplishments can be found in the body of this report.

I appreciate the support of all Agency employees in achieving the accomplishments set forth in this report.



David Berry
Inspector General
October 29, 2010

AGENCY PROFILE

The National Labor Relations Board (NLRB or Agency) is an independent Federal agency established in 1935 to administer the National Labor Relations Act (NLRA). The NLRA is the principal labor relations law of the United States, and its provisions generally apply to private sector enterprises engaged in, or to activities affecting, interstate commerce. NLRB jurisdiction includes the U.S. Postal Service (other government entities, railroads, and airlines are not within NLRB's jurisdiction).

The NLRB seeks to serve the public interest by reducing interruptions in commerce caused by industrial strife. It does this by providing orderly processes for protecting and implementing the respective rights of employees, employers, and unions in their relations with one another. The NLRB has two principal functions: (1) to determine and implement, through secret ballot elections, the free democratic choice by employees as to whether they wish to be represented by a union in dealing with their employers and, if so, by which union; and (2) to prevent and remedy unlawful acts, called unfair labor practices, by either employers or unions.

NLRB authority is divided by law and delegation. The five-member Board primarily acts as a quasi-



judicial body in deciding cases on formal records. The General Counsel investigates and prosecutes unfair labor practices before administrative law judges, whose decisions may be appealed to the Board; and, on behalf of the Board, conducts secret ballot elections to determine whether employees wish to be represented by a union.



Standing left to right:
Mark Gaston Pearce
and Brian Hayes.
Seated left to right:
Craig Becker, Wilma B.
Liebman and Peter C.
Schaumber.

The Board consists of the Chairman and four Members who are appointed by the President with the advice and consent of the Senate. Board Members serve staggered terms of 5 years each. The General Counsel is also appointed by the President with the advice and consent of the Senate and serves a 4-year term.

On June 22, 2010, Mark Gaston Pearce and Brian Hayes were confirmed by the Senate as NLRB Board Members. Member Peter C. Schaumber's term ended on August 27, 2010. Chairman Wilma B. Liebman and Board Member Craig Becker continue to serve on the Board during this reporting period.

General Counsel Ronald Meisburg resigned effective June 20, 2010. On June 21, 2010, the President

designated Lafe Solomon as Acting General Counsel.

The NLRB received an appropriation of \$283,400,000 for Fiscal Year (FY) 2010 to fund a ceiling of 1,685 full-time equivalents. NLRB Headquarters is at 1099 14th Street, NW, Washington, DC.

In addition to the Headquarters building, employees are located in 51 field offices throughout the country. Three satellite offices for the administrative law judges are located in Atlanta, San Francisco, and New York City. Since October 2, 2000, field offices have included 32 Regional Offices, 16 Resident Offices, and 3 Subregional Offices.

Additional information about the NLRB can be found at www.NLRB.gov.

OFFICE OF INSPECTOR GENERAL

NLRB established the Office of Inspector General (OIG) pursuant to the 1988 amendments to the Inspector General Act of 1978 (IG Act).

Resources

The FY 2010 OIG budget was \$1,281,700 for operations, of which \$213,500 was for contract services. In addition to the Inspector General, the OIG consists of a Counsel/Assistant Inspector General for Investigations, an Assistant Inspector General for Audits, three auditors, and a staff assistant. At this time, the OIG is recruiting to fill the Counsel/Assistant Inspector General for Investigations position.



AUDIT PROGRAM

The Inspector General is to provide policy direction for and is to conduct, supervise, and coordinate audits relating to program operations of the Agency. During the reporting period, the OIG issued one audit and two inspection reports.

We issued **Audit Report OIG-AMR-63-10-02, Financial Remedies and Other Settlement Terms**, on September 10, 2010.

This audit was conducted to evaluate the controls over the computation of backpay and the nature of other settlement terms. We also reviewed the accuracy of backpay-related data entered in the Agency's case management system.

We generally found that the controls over the computation of backpay were not working in the sense that the Regional Offices reviewed were not following procedures set out in the casehandling manual. Some of our findings involve very basic procedural requirements including collecting information to calculate backpay and providing forms to employees. Others, however, involve the exercise of the Agency's discretion to approve a settlement of a case for less than 80 percent or more than 100 percent without proper authorization. We also found

that the backpay data in the Case Activity Tracking System is not reliable. Overall, we believe that the control environment that we observed and the unreliability of the case processing data create a difficult management challenge. Our recommendations are tailored to focus attention on that challenge.

Management stated that they intend to use the information provided to improve Regional Office operations.

We issued **Inspection Report OIG-INS-58-10-01, Restoration of Annual Leave**, on May 13, 2010. This inspection was conducted to determine whether requests to restore annual leave were processed in accordance with Federal laws and regulations and whether requests were processed in accordance with NLRB policies and procedures.

Federal regulations state that for annual leave to be restored, a determination must be made that an exigency is of such a major

importance that the annual leave may not be used. Our findings questioned whether 1,447.50 hours of restored annual leave met the statutory requirements of an exigency of business. We also identified abuses in the leave restoration process. Those abuses included an apparent scheme to accumulate the maximum possible leave prior to retirement to receive the maximum lump sum payment upon retirement and restoring leave that was not previously scheduled. We also found a limited number of administrative processing issues. We did not identify any employees who maintained a restored leave balance beyond the time limit for use.

We issued **Inspection Report OIG-INS-59-10-02, Headquarters Productivity During the Government Closure in February 2010**, on June 2, 2010.

This inspection was conducted to determine the level of work that occurred during the Government closure, what worked well for those employees, and what suggestions the employees may have to improve their ability to perform work-at-home during a Government closure.

Almost 88 percent of Headquarters employees responded to our survey. We found that, on average, 49.6 percent of the Headquarters employees who responded to our survey engaged in work-at-home for about 3.32 hours on any given day of the Government closure.

In total, those employees reported working 1,867 hours. Another 6.4 percent of the Headquarters employees reported coming into Headquarters on at least 1 day during the Government closure. Those employees reported working a total of 128 hours.

When employees were asked what worked well for them and what the Agency could do to improve the employee's ability to perform work-at-home, we received 133 responses. Of these, 87 employees indicated that everything worked well or had no suggestions. Among the employees who have a Government Blackberry, 13 noted that the Blackberry was useful during the Government closure. Some of the suggestions also noted that more planning or information about management's expectations would have been helpful.

Audit Follow-up

Agreed upon actions were not completed within 1 year on five audit reports.

Audit of the NLRB Fiscal Year 2006 Financial Statements, OIG-F-11-07-01, was issued on December 14, 2006, and we reached agreement with management on June 14, 2007. We continue to monitor the Agency's progress towards implementing the final open recommendation.

Continuity of Operations, OIG-AMR-55-07-03, was issued on



September 18, 2007, and we reached agreement with management on that date. Action has been completed on one of the three recommendations. The Agency is actively working to implement the other two recommendations.

Audit of the NLRB Fiscal Year 2007 Financial Statements, OIG-F-12-08-01, was issued on December 17, 2007, and we reached agreement with management on that date. Action has been completed on two of the three recommendations. The Agency is actively working to implement the final recommendation.

Office of the Chief Information Officer Procurement Functions, OIG-AMR-57-08-01, was issued on March 14, 2008, and we reached

agreement with management on that date. Action has been completed on five of the seven recommendations. The Agency is actively working to implement the other two recommendations.

Laptop Computer Accountability and Security, OIG-AMR-59-09-01, was issued on February 27, 2009, and we reached agreement with management on that date. None of the six recommendations made in the report have been fully implemented. We will continue to monitor management's progress in implementing these recommendations.

INVESTIGATIONS PROGRAM

The Inspector General is to provide policy direction for and is to conduct, supervise, and coordinate investigations relating to the programs and operations of the Agency. The investigations resulted in one separation while the investigation was pending and one agreement for leave without pay in lieu of other disciplinary action. The OIG also referred three matters to the Department of Justice.

Case Workload		Contacts Processed	
Open (4/1/2010)	8	Received	137
Initiated	5	Initiated Investigation	1
Closed	2	Opened Case — Referred to Agency	0
Open (9/30/2010)	11	Non-Investigative Disposition	136

Investigative Highlights

- Responded to a Congressional request for an investigation involving the President’s Ethics Pledge. We found that the pledge and other Government ethics regulations were not violated. OIG-I-447
- Investigated an allegation that documents were stolen from

a Regional Office file. The local U.S. Attorney’s Office declined prosecution. We received additional information regarding the improper release of the documents. A report was forwarded to the General Counsel. OIG-I-446

- Investigated an allegation that an employee had a conflict of interest. We referred an issue involving lack of candor during the investigation to the local U.S. Attorney’s Office. Prosecution was declined and the employee agreed to leave without pay in lieu of other disciplinary action. OIG-I-445
- Issued a report regarding the negligent handling of complaints by Regional Office personnel. The employee involved will be counseled. OIG-I-437



- Referred a matter involving providing false information during an OIG investigation to the local U.S. Attorney's Office. Prosecution was declined and our investigation continues. OIG-I-441

Hotline

Employees and members of the public with information on fraud, waste, and abuse are encouraged to contact the OIG. A log of calls to a nationwide toll-free number or the office numbers and a log of mail, e-mail, and facsimile messages are maintained. All information received, regardless of the method used, is referred to as Hotline contacts.

The information received over the Hotline is the basis for the initial review for potential investigations. The information is analyzed to determine if further inquiry is warranted. Most Hotline contacts are calls from members of the public seeking help on an employment-related problem or issues outside OIG and/or Agency jurisdiction. As appropriate, the OIG refers these callers to the Regional Office; local, state, or Federal agencies; or private resources to provide assistance.

During this reporting period, the OIG received 137 Hotline contacts, of which 40 were telephone calls or walk-ins and 97 were in writing.

LEGISLATION, REGULATIONS AND POLICY

The responsibilities and duties of an OIG include reviewing existing and proposed legislation and regulations relating to the programs and operations of its agency and making recommendations in the semiannual reports concerning the impact of such legislation or regulations on the economy and efficiency in the administration of programs and operations administered or financed by the agency or the prevention and detection of fraud and abuse in such programs and operations.

Legislation

During this reporting period, there were no new legislative proposals that would significantly impact the programs and operations of the Agency. There are two existing legislative proposals that were reported in prior semiannual reports that remain before Congress. The impact of these proposals on the NLRB and its programs has been the subject of extensive debate.

Regulations

The Counsel to the Inspector General is an advisory member of the Agency's Rules Revision Committee that develops changes to the Agency's procedural regulations.

LIAISON ACTIVITIES

The Inspector General is to recommend policies for, and is to conduct, supervise, or coordinate relationships between the Agency and other Federal agencies, state and local governmental agencies, and non-governmental entities. The Inspector General is to give particular regard to the activities of the Comptroller General of the United States. Similarly, we encourage OIG staff members to participate in Agency programs and activities.

Inspector General Community

The Inspector General is a member of the Council of the Inspectors General on Integrity and Efficiency. This organization consists of Inspectors General at the Federal Government's departments and agencies.

The Assistant Inspector General for Audits, or designated auditors, participated in the Federal Audit Executive Council, Financial Statement Audit Network, and the Interagency Investigative Data Mining Working Group.

Government Accountability Office

The IG Act states that each Inspector General shall give particular regard to the activities of the Comptroller General of the United States, as head of the U.S. Government Accountability Office (GAO), with a view toward avoiding duplication and ensuring effective coordination and cooperation. We had no activity during this reporting period that required coordination with GAO.

INFORMATION

REQUIRED BY THE ACT

Certain information and statistics based on the activities accomplished during this period are required by section 5(a) of the IG Act to be included in the semiannual reports. These are set forth below:

Section 5(a)

(1), (2), (7) OIG did not identify significant problems, abuses or deficiencies relating to the administration of programs. For the purpose of this section, we used the definition of significant as set forth in the Federal Managers' Financial Integrity Act.

(3) Corrective action has been completed on all significant recommendations that were described in the previous semiannual reports.

(4) Three cases were referred to prosecutorial authorities.

(5) No reports were made to the Chairman that information or assistance requested by the Inspector General was unreasonably refused or not provided.

(6) A listing by subject matter is located on page 13.

(8), (9) No audit reports issued during this period had questioned costs or recommendations that

funds could be put to better use. *See Tables 1 and 2.*

(10) There are no audit reports issued before the commencement of the reporting period for which no management decision has been made by the end of the reporting period.

(11) No significant revised management decisions were made during the reporting period.

(12) There are no significant management decisions with which I am in disagreement.

(13) There is no information to report under the requirements of section 05(b) of the Federal Financial Management Improvement Act of 1996.

(14), (15) A peer review was not conducted during this reporting period. A peer review of the OIG's audit program was last conducted in February 2009 by the Federal Trade Commission's OIG. A copy of the peer review report is at the appendix. There were no recommendations. The OIG's investigative program is not subject to the peer review requirement.

(16) The OIG did not conduct a peer review during this reporting period.

AUDIT REPORTS BY

SUBJECT MATTER

Report Title and Number	Questioned Costs	Unsupported Costs	Ineligible Costs	Funds To Be Put To Better Use
Securing Compliance with Board Orders				
Financial Remedies and Other Settlement Terms OIG-AMR-63-10-02	0	0	0	0

Table I. Reports With Questioned Costs

	Number of Reports	Dollar Value	
		Questioned Costs	Unsupported Costs
A. For which no management decision has been made by the commencement of the period	0	0	0
B. Which were issued during the reporting period	0	0	0
Subtotals (A+B)	0	0	0
C. For which a management decision was made during the reporting period	0	0	0
(i) Dollar value of disallowed costs	0	0	0
(ii) Dollar value of costs not disallowed	0	0	0
D. For which no management decision has been made by the end of the reporting period	0	0	0
Reports for which no management decision was made within six months of issuance	0	0	0

Table 2. Reports with Recommendations that Funds be Put to Better Use

	Number of Reports	Funds To Be Put To Better Use
A. For which no management decision has been made by the commencement of the period	0	0
B. Which were issued during the reporting period	0	0
Subtotals (A+B)	0	0
C. For which a management decision was made during the reporting period	0	0
(i) Dollar value of recommendations that were agreed to by management	0	0
(ii) Dollar value of recommendations that were not agreed to by management	0	0
D. For which no management decision has been made by the end of the reporting period	0	0
Reports for which no management decision was made within six months of issuance	0	0

APPENDIX



Office of Inspector General

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

System Review Report

February 6, 2009

David P. Berry
Inspector General
National Labor Relations Board

We have reviewed the system of quality control for the audit organization of the National Labor Relations Board Office of Inspector General (NLRB OIG) in effect for the year ended September 30, 2008. A system of quality control encompasses the NLRB OIG's organizational structure and the policies adopted and procedures established to provide it with reasonable assurance of conforming with *Government Auditing Standards*. The elements of quality control are described in *Government Auditing Standards*. The NLRB OIG is responsible for designing a system of quality control and complying with it to provide the NLRB OIG with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Our responsibility is to express an opinion on the design of the system of quality control and the NLRB OIG's compliance therewith based on our review.

Our review was conducted in accordance with *Government Auditing Standards* and guidelines established by the Council of the Inspectors General on Integrity and Efficiency (CIGIE). During our review, we interviewed NLRB OIG personnel and obtained an understanding of the nature of the NLRB OIG audit organization, and the design of the NLRB OIG's system of quality control sufficient to assess the risks implicit in its audit function. Based on our assessments, we selected audit engagements and administrative files to test for conformity with professional standards and compliance with the NLRB OIG's system of quality control. The audit engagements selected included all audits performed during Fiscal Year 2008. Prior to concluding the review, we reassessed the adequacy of the scope of the peer review procedures and met with NLRB OIG management to discuss the results of our review. We believe that the procedures we performed provide a reasonable basis for our opinion.

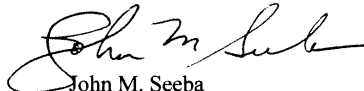
In performing our review, we obtained an understanding of the system of quality control for the NLRB OIG's audit organization. In addition, we tested compliance with the NLRB OIG's quality control policies and procedures to the extent we considered appropriate. These tests covered the application of the NLRB OIG's policies and procedures on selected engagements. Our review was based on selected tests; therefore, it would not necessarily detect all weaknesses in the system of quality control or all instances of noncompliance with it.

There are inherent limitations in the effectiveness of any system of quality control, and therefore noncompliance with the system of quality control may occur and not be detected. Projection of any evaluation of a system of quality control to future periods is subject to the risk that the system of quality control may become inadequate because of changes in conditions, or because the degree of compliance with the policies or procedures may deteriorate.

This report identifies the NLRB OIG office that we visited and the engagements that we reviewed.

In our opinion, the system of quality control for the audit organization of the NLRB OIG in effect for the year ended September 30, 2009, has been suitably designed and complied with to provide the NLRB OIG with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Federal audit organizations can receive a rating of *pass*, *pass with deficiencies*, or *fail*. The NLRB OIG has received a peer review rating of *pass*.

In addition to reviewing its system of quality control to ensure adherence with *Government Auditing Standards*, we applied certain limited procedures in accordance with guidance established by the CIGIE related to the NLRB OIG's monitoring of engagements performed by Independent Public Accountants (IPA) under contract where the IPA served as the principal auditor. It should be noted that monitoring of engagements performed by IPAs is not an audit and therefore is not subject to the requirements of *Government Auditing Standards*. The purpose of our limited procedures was to determine whether the NLRB OIG had controls to ensure IPAs performed contracted work in accordance with professional standards. However, our objective was not to express an opinion and accordingly, we do not express an opinion, on the NLRB OIG's monitoring of work performed by IPAs.



John M. Seeba
Inspector General



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