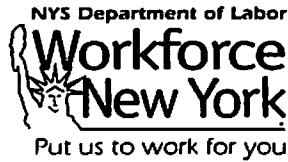


George E. Pataki, Governor



Linda Angello, Commissioner

May 19, 2005

[REDACTED]

Re: Request for Opinion
RO-05-0037
(Direct Deposit of Salaries)

RECEIVED
NEW YORK OFFICE

MAY 25 2005

COUNSEL'S OFFICE
N.Y. STATE DEPT. OF LABOR

AK
BY

Dear [REDACTED]

Upon review of your letter of April 28, 2005, and the Department's answer of May 10, 2005, please note the following clarification to such answer:

2) Does state law permit mandating the use of direct deposit transfers where:

b) The collective bargaining representative(s) oppose(s) the use of mandated direct deposit payroll transfers?

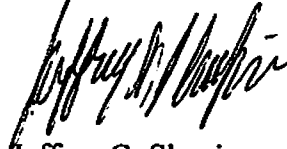
The answer to this question depends on the precise manner in which the collective bargaining representative(s) "oppose(s)" direct deposit. As previously stated, this Department has taken the position that the consent required by Labor Law §192(1) may be deemed to have been given by all employees through their union representatives by a collective bargaining agreement. It is the Department's position, therefore, that a union may, as a designated bargaining representative, lawfully consent to direct deposit of wages on behalf of its members, which consent would be binding on all members. Similarly, a collective bargaining agreement which clearly and unambiguously refuses consent to direct deposit would be equally binding on all union members. The effect of other forms of "opposition" would have to be evaluated according to the surrounding facts and circumstances.

This opinion is based upon the information provided in your letter of April 28, 2005. A different opinion might result if any facts provided have been inaccurately stated, or if there are other relevant facts which have not been disclosed.

Phone: (518) 457-4380 Fax: (518) 485-1819
W. Averell Harriman State Office Campus, Bldg. 12, Room 509, Albany, NY 12240

I trust this letter is responsive to your request.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeffrey G. Shapiro". The signature is written in a cursive, slightly slanted style.

Jeffrey G. Shapiro
Senior Attorney

JGS:dmm
Opinion letter2

bcc: Rich Cucolo
Carmine Ruberto
Opinion File (Albany & NYC)
Jeffrey G. Shapiro
CO Dayfile (RO-05-0037)