



New York State Department of Labor

David A. Paterson, Governor

M. Patricia Smith, Commissioner

March 30, 2009

[REDACTED]

Re: Labor Law 203-d / Employee Identifying Information
Our File No. RO-09-0045

Dear [REDACTED]

Your letter dated March 18, 2009, has been referred to Counsel's Office for a response. You ask, on behalf of [REDACTED] if employers would be in violation of Labor Law Section 203-d when they supply employee social security numbers to union benefit funds pursuant to various collective bargaining agreements. The forwarding of such identifying information to a union benefit fund pursuant to a collective bargaining agreement is not a violation of Labor Law Section 203-d.

The section in question provides that an employer may not:

- a) Publicly post or display an employee's Social Security number;
- b) Print that number on any identification badge or time card;
- c) Place a Social Security number in any file with unrestricted access; or
- d) Communicate the Social Security number to the general public.

In addition, a Social Security number shall not be used as an identification number for occupational licensing.

None of the above mentioned limitations on the use of Social Security numbers is violated when contractors provide employee social security numbers to an ERISA covered employee benefit plan operator. The fact that the plan happens to be operated by a union that represents those same employees, pursuant to a collective bargaining agreement between the union and the employer, is irrelevant to the analysis of this inquiry. There is no indication in the information that you have provided that such information will be distributed to the public in general, but rather, such information is necessary to insure that the funds are placed in appropriate accounts. In fact, it is clearly in the interest of both the employer and the employee that such contributions are appropriately and timely credited. The use of Social Security numbers assures this result. Accordingly, the scenario you describe would not constitute a violation of Labor Law Section 203-d.

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This opinion is specific to the facts described in the documents provided and, were those facts to vary from those set forth in the documents, or if additional facts and circumstances exist of which we are not currently aware, this opinion could be changed accordingly. I trust that this is responsive to your inquiry. Please let us know if you need any further clarification on this issue.

Very truly yours,

John D. Charles
Associate Attorney

cc: Maria Colavito
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Opinion file
Dayfile