



United States Government

NATIONAL LABOR RELATIONS BOARD

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March 2, 2022

Kristin Swearingen, Chair
Coalition for a Democratic Workplace
MyPrivateBallot.com
swearingen@abc.org

Re: Letter to Chairman McFerran and Members of the National Labor Relations Board

Dear Ms. Swearingen:

We received the letters you submitted on behalf of the Coalition for a Democratic Workplace on January 14, 2022 and February 15, 2022, addressed to Chairman Lauren McFerran and Members Marvin E. Kaplan, John F. Ring, Gwynne A. Wilcox, and David M. Prouty of the National Labor Relations Board. In the letters, you assert that Members Wilcox and Prouty should be disqualified from participating in (1) the lawsuit styled *Service Employees International Union v. National Labor Relations Board*, No. 21-2443 (D.D.C) (“SEIU Suit”), (2) any other legal proceeding involving the SEIU (or its National Fast Food Workers Union) or the joint-employer rule, and (3) any rulemaking on the joint-employer standard.

The letters also ask a series of questions seeking information about Members Wilcox and Prouty and their work at the Board, including, *inter alia*, recusal determinations, the basis for these determinations, entities for which they have previously provided legal services, etc.

If the letters are intended to seek recusal or disqualification of Members Wilcox and/or Prouty as to unspecified cases pending before the Board, the Board does not accept such filings. Nothing in the Board’s Rules and Regulations provides for the filing of a motion unconnected to a particular case or proceeding. See *The Committee to Preserve the Religious Right to Organize*, order rejecting motions, September 11, 2019 (attached).

If the letters are intended to be a comment pertaining to Agency rulemaking, the comment will need to be filed properly during an open comment period for such rulemaking. The Board currently has no open rulemaking matters for which public comment is being sought. Nevertheless, your letters and this response will be included in the administrative record in the Board’s rulemaking on Joint Employer Status, RIN 3142-AA21.

With regard to the list of questions posed in the letters that seek information pertaining to Members Wilcox and Prouty, requests for agency records should be submitted to our Freedom of Information Act office. The [Freedom of Information Act \(FOIA\)](#), 5 U.S.C. Sec. 552 is the law

that gives members of the public access to certain non-exempt records and other information that relates to the functions, decisions, and operations of federal agencies such as the NLRB. The NLRB's Freedom of Information Act regulations, found at 29 C.F.R. § 102.117, provide the guidelines for the public to seek information from the Agency. Information about filing a FOIA request with the NLRB's FOIA office can be found on our public website at <https://www.nlr.gov/guidance/freedom-of-information-act-foia/how-to-file-a-foia-request>.

Sincerely,

Roxanne L. Rothschild

Roxanne L. Rothschild
Executive Secretary

cc: Vance Walter, Walter@abc.org