

Check Your Check-Off

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As Lee Corso on ESPN likes to say – not so fast, my friend. Just because Indiana is now a Right to Work state doesn't mean that employees can wilily nilly walk away from their dues deductions. (Well, Corso didn't say that second thing.)

A recent Advice Memorandum issued by the Office of the General Counsel of the National Labor Relations Board (NLRB) underscores that point. In an August 14, 2012 Advice Memorandum, the Office of the General Counsel concluded that an SEIU requirement (included on the dues check-off authorization card) that notice of dues revocation must be sent by certified mail was an enforceable condition that does not violate the National Labor Relations Act. Such a requirement, he concluded, is an internal union matter involving a voluntary agreement between the employee and the union.

Here, the employee signed the union's dual purpose membership card which also included the authorization to deduct dues. The card specifically stated:

This authorization shall remain in effect for one year, irrespective of whether I am a union member, and be automatically renewed for periods of one year from the date signed below, or until the expiration of the union's contract with my employer, whichever is sooner. I can revoke this authorization by sending written notice by certified mail to my employer and to the union not more than 20 days and not less than 10 days before the expiration of the yearly period, or before the expiration of the union contract with my employer, whichever is sooner.

The employee gave written notice to the union on two occasions, but neither was by certified mail. The union denied the revocation because she failed to use certified mail. The employee then filed the charge with the NLRB. Because the General Counsel found no violation of the Act, the employee is stuck paying dues for another year.

If a company has been organized by a union, and an employee approaches his/her employer regarding withdrawing their authorization to deduct dues from their paychecks, the employer may want to/should review the authorization cards signed by those employees. Employers will find that in most cases they contain a window period of 10 to 30 days annually within which an employee may give written notice to the company and the union of their desire to stop paying dues. As underscored in this General Counsel Advice Memorandum, those types of restrictions are indeed enforceable. In fact, the Board had previously held in *Syscon International Inc.*, 322 NLRB 93

(1996) that limited periods of revocation are enforceable.

A copy of the General Counsel's Advice Memorandum is [available here](#).