

NLRB's Inspector General Finds That NLRB's Head Attorney Violated Ethical Rules

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In a report issued on Sept. 13, 2012 but made public on Sept. 17, the NLRB's Office of the Inspector General (the "IG"), found that the NLRB's Acting General Counsel, Lafe Solomon, violated ethics rules by "personally and substantially" participating in an official capacity in a matter in which he had a financial interest.

The IG's report explained that in spite of knowing that he may not have been properly permitted to participate in deciding the merits of a charge against Wal-Mart because he owned stock in the company, Solomon nevertheless participated in a January 2012 meeting regarding a charge involving Wal-Mart's social media policy. Solomon's concern arose out of his owning approximately \$18,000.00 in Wal-Mart shares. According the IG's report, aside from attending the January meeting, Solomon reviewed the Advice Memorandum regarding Wal-Mart's policy, met with the NLRB's Division of Advice staff, made a decision that further work was needed before a decision on the merits of the issue could be made, and directed his subordinates to contact the Wal-Mart representatives to attempt to reach a resolution that would negate his need to make a decision on the merits of the charge.

About a week after the meeting at issue, Solomon sought an ethics waiver

from the NLRB's ethics officer, but was denied. As a result of the denial, Solomon sold his shares in Wal-Mart. The OIG, however, found that his earlier attendance of the meeting and directives surrounding the issue were already violative. On the other hand, the OIG found no evidence that Solomon acted with intent to enrich himself or otherwise achieve any financial benefit. Instead, the OIG found "a complete failure of the NLRB's ethics program with regard to the operations of the Office of the General Counsel and that the environment at the NLRB in which this violation occurred was dysfunctional and adversarial."

While the IG report does not recommend any remedial action other than for an appropriate system of control to be instituted, it is likely that Mr. Solomon will face substantial scrutiny going forward. The House of Representatives Education and Workforce Committee's Chairman, Congressman John Kline issued the following statement on the matter: "Any charge of illegal action by a public official is a serious matter. The IG report makes troubling allegations that acting General Counsel Solomon's participation in a case in which he held a financial interest was both criminal and unethical. Such behavior is unacceptable. As a public servant, Mr. Solomon has a responsibility to adhere to the highest standards of ethical conduct. I plan to carefully review the report and assess the need for additional action in light of its findings."

A copy of the IG Report Can be found on the [Committee on Oversight and Government Reform's](#) website.

A copy of Mr. Solomon's response can be [found here](#).