Big Labor Continues to Target the Financial Industry

Labor & Employment Law Update

By Peter Hansen and Jeffrey Risch and Larry Tomlin on December 21, 2022

As labor unions continue to target banks and credit unions – employers that, as mentioned in our previous blog, unions historically avoided – employers in the financial industry must be aware of labor law developments. It is critical that employers know and understand the rules of engagement in traditional labor law --- particularly as the law develops under the current administration. What now will trigger an unfair labor practice charge or the ire of the National Labor Relations Board (NLRB) is much different than a few years ago. Additionally, the rules and procedures surrounding a union organizing drive is changing dramatically and evolving into a very pro-union process.

Union Organizing of Another Financial Institution

Wells Fargo & Co. (Wells Fargo) has been the subject of unionization efforts since November 2021. A key part of its non-supervisory labor force is pushing to unionize with the Communications Workers of America to address compensation, remote work and corporate sales goals.

Wells Fargo likely became a prime target for union organizers as a result of the fake account scandal, in which employees blamed “unrealistic sales goals” set by management and an aggressive cross-selling campaign for allegedly pressuring them into creating 3.5 million fraudulent accounts. More recently, employees have filed claims with the NLRB alleging unfair pay and retaliatory measures on remote work due to their union activism.

The workers appear to believe that forming a union will encourage Wells Fargo to negotiate sales goals, adjust pay and recognize a more permanent right to work remotely. If this view is indeed the prevailing mindset – that a labor union can actually positively assist with such terms and conditions of employment vs. direct management engagement – then that would make the prospects of at least segments of the workforce more likely to push for and vote in a labor union. If successful, labor unions will surely increase their efforts to organize employees in the financial services industry.

Bottom Line

First and foremost, employers in the financial industry need to closely follow labor law developments, and improve their understanding of how the National Labor Relations Act impacts their ability to effectively manage. Making sure that all levels of management have at least a basic familiarity with how to avoid a union organizing petition or unfair labor practice charge is critical. Knowing what to say and what not to say, along with becoming knowledgeable on new labor law developments impacting employee rights is critical.

Second, work with experienced labor and banking counsel to develop a plan for how to respond to union organizing attempts – the sooner, the better. Employers who put it off until after the organizing campaign begins may find themselves in the unenviable position of scrambling to develop a plan, while the union is already well on its way of implementing its own and winning the campaign.