



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 32  
1301 CLAY ST  
STE 300N  
OAKLAND, CA 94612-5224

Agency Website: [www.nlr.gov](http://www.nlr.gov)  
Telephone: (510)637-3300  
Fax: (510)637-3315

October 27, 2011

[REDACTED]  
WEINBERG, ROGER & ROSENFELD  
1001 MARINA VLG PKWY  
STE 200  
ALAMEDA, CA 94501-6430

Re: KPFA Radio 94.1 FM  
Case 32-CA-062325

Dear [REDACTED]:

We have carefully investigated and considered your charge that KPFA Radio 94.1 FM has violated the National Labor Relations Act.

**Decision to Dismiss:** Based on that investigation, I have concluded that further proceedings are not warranted, and I am dismissing your charge for the following reasons:

The charge, as elaborated upon during the investigation, alleges that the Employer violated Section 8(a)(1), (3), and (5) of the Act by unilaterally implementing new rules regarding communications during the Employer's fund drive without bargaining with the Union, by threatening employees with discipline and disciplining employees for engaging in activities on behalf of the Union and/or engaging in protected concerted activities. The investigation disclosed that on February 15 and March 1, 2011, by electronic mail, the Employer requested employees not to discuss internal disputes on the air or in the phone room during the Employer's fund-raising drive. That directive appears to be exempt from any bargaining obligation on the Employer's part. See *Peerless Publications, Inc.*, 283 NLRB 334 (1987). Moreover, the management rights provision in the parties' collective bargaining agreement appears to have privileged the Employer to unilaterally adopt a rule regarding such on-air and telephone communications by employees. Accordingly, I am dismissing the charge in this case.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals. If you appeal, you may use the enclosed Appeal Form, which is also available at [www.nlr.gov](http://www.nlr.gov). However, you are encouraged to also submit a complete statement of the facts and reasons why you believe my decision to dismiss your charge was incorrect.

**Means of Filing:** An appeal may be filed electronically, by mail, or by delivery service. Filing an appeal electronically is preferred but not required. The appeal MAY NOT be filed by fax. To file an appeal electronically, go to the Agency's website at [www.nlr.gov](http://www.nlr.gov), click on **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions. To file an appeal by mail or delivery service, address the appeal to the General Counsel at the National

Labor Relations Board, Attn: Office of Appeals, 1099 14th Street, N.W., Washington D.C. 20570-0001. Unless filed electronically, a copy of the appeal should also be sent to me.

**Appeal Due Date:** The appeal is due on **November 10, 2011**. If you file the appeal electronically, we will consider it timely filed if you send the appeal together with any other documents you want us to consider through the Agency's website so the transmission is completed by **no later than 11:59 p.m. Eastern Time** on the due date. If you mail the appeal or send it by a delivery service, it must be received by the Office of Appeals in Washington, D.C. by the close of business at **5:00 p.m. Eastern Time** or be postmarked or given to the delivery service no later than November 9, 2011.

**Extension of Time to File Appeal:** Upon good cause shown, the General Counsel may grant you an extension of time to file the appeal. A request for an extension of time may be filed electronically, by fax, by mail, or by delivery service. To file electronically, go to [www.nlr.gov](http://www.nlr.gov), click on **File Case Documents**, enter the NLRB Case Number and follow the detailed instructions. The fax number is (202)273-4283. A request for an extension of time to file an appeal **must be received on or before November 10, 2011**. A request for an extension of time that is mailed or given to the delivery service and is postmarked or delivered to the service before the appeal due date but received after the appeal due date will be rejected as untimely. Unless filed electronically, a copy of any request for extension of time should be sent to me.

**Confidentiality:** We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,



WILLIAM A. BAUDLER  
Regional Director

Enclosure

cc GENERAL COUNSEL  
OFFICE OF APPEALS  
FRANKLIN COURT BUILDING  
NATIONAL LABOR RELATIONS  
BOARD  
1099 14<sup>TH</sup> STREET, NW  
WASHINGTON, DC 20570

[REDACTED]  
KPFA RADIO 94.1 FM  
1929 MARTIN LUTHER KING JR WAY  
BERKELEY, CA 94704-1037

[REDACTED]  
FOLGER LEVIN & KAHN, LLP  
119 FREMONT ST  
FL 23  
SAN FRANCISCO, CA 94105-6638

[REDACTED]  
COMMUNICATION WORKERS OF  
AMERICA, LOCAL 9415  
1831 PARK BLVD  
OAKLAND, CA 94606-1823

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD

**APPEAL FORM**

To: General Counsel  
Attn: Office of Appeals  
National Labor Relations Board  
Room 8820, 1099 - 14th Street, N.W.  
Washington, DC 20570-0001

Date:

Please be advised that an appeal is hereby taken to the General Counsel of the National Labor Relations Board from the action of the Regional Director in refusing to issue a complaint on the charge in

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Case Name(s).

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Case No(s). *(If more than one case number, include all case numbers in which appeal is taken.)*

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*(Signature)*