



New York State Department of Labor
David A. Paterson, Governor
M. Patricia Smith, Commissioner

December 11, 2009



Re: Request for Opinion
Child Labor
RO-09-0126

Dear [REDACTED]:

This letter is written in response to your letter of September 10, 2009 in which you inquire as to the employment status of children selling cookies and candies provided to them by a not-for-profit charitable foundation for fundraising purposes. Please accept my apology for the late response to your request. Unfortunately, however, more information is needed in order to address the issues posed in your letter. To facilitate a thorough reply to your inquiry, please provide answers to the following questions:

1. Is there a minimum amount of time in which the children are required to engage in fundraising activities per week/month for any reason? (e.g. to maintain membership in the club, to participate in one or more activities) If yes, please describe.
2. When the supervisors take the children out and drop them off in the pre-selected area, for how long do the children generally remain there?
3. Are the children able to obtain a ride back from the supervisors at any time during that time period?
4. At the pre-selected areas, are the supervisors present while the children are engaging in the fundraising activities?
5. How many children are transported and supervised by one individual supervisor in a given day?

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6. How are the supervisors compensated for their work/efforts?
7. Does the club engage in any form of background screening of the supervisors to ensure the safety of the children with whom they are entrusted?
8. Does any portion of the children's sales factor into the compensation the supervisors receive?
9. How does the accounting for the child's sales take place at the end of the day/shift?
10. How many points, in terms of fundraising revenue, are needed for the children to acquire the incentives described in your letter? (e.g. school lunch vouchers, laptops, bicycles, MP3 players, etc.)
11. What is the club's cost for the incentive items? (aggregate and per item)
12. Are the children responsible for inventory missing at the end of the day for which there is no corresponding revenue? (e.g., the cookies and candies were lost, stolen, spoiled, eaten by the children, etc.)
13. What proportion of the club's revenues is derived from the fundraising activities?
14. How frequently does the club engage in the fundraising activities? (e.g., continuously, one month a year, etc.)
15. How many children take part in the fundraising activities on an annual basis?
16. How many supervisors does the club employ or utilize in relation to its fundraising activities?
17. How many children participate in all of the club's programs?
18. Does any amount of the revenues derived from the fundraising inure to the benefit of any individual including officers, directors, or employees? (through wages, profits, loans, etc.)
19. Is participation in the fundraising activities required, impliedly or expressly, for participation in any of the club's other events or activities?
20. How does the club recruit children to engage in the fundraising activities?
21. Are there any children who engage in the fundraising activities who do not otherwise participate in the activities of the club?

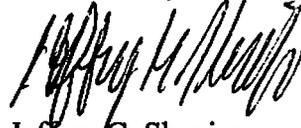
22. Is there an age limit for participation in the fundraising activities? (e.g. only 12-16 year olds may participate)

I look forward to your response. Should you have any further questions, please do not hesitate to contact me.

Very truly yours,

Maria L. Colavito, Counsel

By:



Jeffrey G. Shapiro
Associate Attorney

JGS:mp

cc: Carmine Ruberto