STATEMENT OF GLENN M. TAUBMAN
TO THE UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON EDUCATION AND THE WORKFORCE
SUBCOMMITTEE ON HEALTH, EMPLOYMENT, LABOR, AND PENSIONS
HEARING: July 9, 2024: Confronting Union Antisemitism: Protecting Workers from Big Labor Abuses.

Chairman Good, Ranking Member DeSaunier and distinguished Committee Members:

Thank you for the opportunity to appear today. I have been practicing labor and constitutional law for over 42 years at the National Right to Work Legal Defense Foundation. National Right to Work Foundation Glenn M. Taubman - National Right to Work Foundation (nrtw.org). My clients are individual employees, not unions or employers. For 42 years I have helped litigate the Foundation's groundbreaking Supreme Court cases, like *Communications Workers v. Beck*, 487 U.S. 735 (1988) and *Janus v. AFSCME*, 585 U.S. 878 (2018). These landmark decisions secured the constitutional and statutory rights of individual workers to limit their association with labor unions they wanted no part of, but were nevertheless forced to join or fund with their hard earned wages, just to get or keep their jobs. My perspective comes from decades of representing more employees than I can count, all covered by the National Labor Relations Act (NLRA), the Railway Labor Act, and the Constitution.

This hearing is aptly titled "Confronting Union Antisemitism: Protecting Workers From Big Labor Abuses," and the need to protect employees, especially Jewish employees, from the latest form of union abuse is clear. Federal labor law must be reformed and reimagined to better protect individual liberty and safeguard individual workers' free choice concerning unionization, especially in the face of today's blatant union anti-semitism.

Unions reflect the harsh realities of majority rule. Minorities within unions almost necessarily get crushed. For example, it is well documented that for decades, unions blatantly and grotesquely discriminated against black workers, see *Steele v. Louisville & N.R. Co*., 323 U.S. 192 (1944) and *Conley v. Gibson*, 355 U.S. 41 (1957). To my frustration, American unions have not become more enlightened. Today, many unions are discriminating against and threatening a different minority group: the Jewish and pro-Israel workers they purport to represent.

Many labor unions have strayed far from their ostensible role as protectors of employees' workplace rights. Partisan politics and foreign policy escapades are simply more exciting and interesting than filing workplace grievances or negotiating workplace protections. These unions are beholden to their own extremists and are often led by people more interested in the ideological and "intersectional" causes fashionable at the fringes of the political spectrum than they

are in the well-being of the workers they purport to represent. These unions are not your father's or grandfather's labor unions, many of which were once staunchly pro-Israel and pro-American. In many workplaces such as college campuses, teaching hospitals, government offices, and K-12 schools, these unions have campaigned for the anti-Israel boycott-divest-sanction (BDS) movement, taking pro-Hamas and anti-American positions because BDS has become the siren song of the progressive left. As the Members of this Committee should know, Hamas is an anti-semitic and anti-Western death cult, not unlike ISIS and al-Qaeda, yet many of today's unions are among its loudest and most ardent supporters.

Many old line unions like the UE electrical workers union or the UAW autoworkers have seen precipitous declines in their traditional industrial membership, so they have searched for low hanging fruit to organize – and that is typically young people like graduate students, medical residents and interns, and legal aid lawyers, people whose political views might previously have aligned with the unions but who had no experience actually dealing with them. (See Ex. 1, Labor Notes article on the targeting of students for compulsory unionism; and Ex. 2, Wall Street Journal editorial about the UAW's pro-Hamas activities). The current travesty of herding graduate students into anti-semitic unions finds its source with the Obama-Biden National Labor Relations Boards, which have by fiat turned graduate *students* into graduate *employees* – subject to unionization under

the NLRA and, of course, the payment of forced union dues as a condition of their academic careers. *See, e.g.*, *Trustees of Columbia University and UAW*, 364 NLRB 1080 (2016), overruling *Brown University*, 342 NLRB 483 (2004). Many Jewish and pro-Israel graduate students are now being told that they must pay dues to these radical unions or face termination. But such union coercion is not limited to university campuses.

After October 7, my law practice and my dealings with my clients took an even darker turn. Initially, my phone began ringing off the hook with calls from Jewish and Israeli graduate students at the nation's elite educational institutions – MIT, Columbia, NYU, the University of Chicago and Northwestern to name a few – asking how they can disassociate not just from any union, but from the anti-semitic anti-Israel union that is menacing them on campus, protecting their tormentors, or forcing them to pay dues to subsidize the union's pro-Hamas activities.

These academic unions have not participated in the occupation of campus libraries to protest the murder of Sudanese, who are being starved and killed by the thousands every day by their own co-religionists. Nor are they helping to set up encampments to protest the treatment of Uighurs being herded into labor camps by the Chinese Communist Party. Nor are they demanding that the Assad regime halt its bloody repression against its own Syrian people, which has resulted in the

murder of hundreds of thousands. Nor do they demand the boycott of Iranian oil products and pistachios in an effort to secure an end to Houthi and Hezbollah rocket attacks on commercial shipping and innocent civilians in both Israel and Lebanon. These unions' time and treasure, and yes, their anti-semitic hatred, is laser focused on defaming Jews and destroying the State of Israel.

In addition, my phone is now ringing off the hook from medical residents and interns at some of the nation's finest teaching hospitals, asking the same question, as their union is busy poisoning their workplace with hateful anti-Jewish and anti-Israeli propaganda and union resolutions.

My phone is also ringing off the hook from teachers and legal aid lawyers, all of whom wonder how the union they formerly *supported* had suddenly become organizers of pro-Hamas demonstrations and purveyors of hateful rhetoric calling for the destruction of Israel, the one Jewish homeland in the world, and the annihilation of all Jews.

Though this anti-semitic storm has been brewing for a long time, it did not make landfall in the lives of most Jewish employees until after October 7, when unions began funneling their resources to virulently anti-semitic and anti-Israel projects. One example of this is the UE union filing unfair labor practice charges against MIT because the university suspended some of the pro-Hamas rioters who blocked access to campus buildings and threatened Israeli and Jewish students.

Instead of siding with the victims of Hamas' terror and the crude anti-semitism of the "protesters," the UE is using union dues and union lawyers to support the perpetrators of these hateful actions. (See Exhibit 3, a UE unfair labor practice charge against MIT for disciplining the "protesters"). And such union misconduct is being repeated all over the country by other unions like the UAW, which went on strike in California to protect pro-Hamas "protesters" who seized university property and set up "encampments" while threatening Jewish and Israeli students. The UAW apparently claims this is all "protected concerted activity" and union free speech under the NLRA, state law, and/or the U.S. Constitution. (See Ex. 4, a lawsuit by the University of California against the UAW to end the strikes).

The National Right to Work Legal Foundation's attorneys have been working with Jewish and Israeli employees to vindicate their statutory and civil rights in the face of this union abuse, but the law as it currently exists is woefully inadequate to the task.

For example, Foundation lawyers have filed *Beck*-related unfair labor practice charges with the National Labor Relations Board because the UE union at MIT lied to employees and falsely told them they must join or pay full dues, with no reduction for political and ideological expenditures, even though the union knows that its money goes to support pro-Hamas rioters on campus. (See Ex. 5, two UE emails sent to all MIT students to coerce them into joining and paying; see

also Ex. 3). The *Beck* decision says otherwise, but the lies and misrepresentations about being "required" to join the union and pay full dues persist.

Unions have no incentive to tell employees about their *Beck* rights, and every pecuniary incentive to hide the truth and try to get employees to pay excessive dues. An NLRB *Beck* settlement with the UE union at MIT required the union to go back and notify all 3,000 graduate students of their true legal rights (see Ex. 6, the UE settlement in Will Sussman's case), but shortly thereafter the union turned around and denied another graduate student's *Beck* objection, necessitating yet again another unfair labor practice charge that the NLRB regional office found to be meritorious. (See Ex. 7, Katerina Boukin's unfair labor practice charge). I expect more such litigation will be necessary to enforce *Beck* rights.

NRTW lawyers have also filed five separate charges of religious and ethnic discrimination with the Equal Employment Opportunity Commission (EEOC) against the same UE union at MIT (see Ex. 8), because that union denied several Jewish graduate students' request for a religious accommodation, telling them, in effect, that the union bosses know more about their Jewish religion, ethnic identity and ancestral homeland than they do. (See Ex. 9, UE denial letter). I expect more Jewish employees around the country will have to initiate litigation and file EEOC charges to see their civil rights honored.

Beyond what I have learned through my conversations with Jewish employees faced with anti-semitic unions, the attached media reports (Ex. 10) demonstrate that this sort of harassing anti-semitic union behavior is going on at unionized workplaces all over the country. I also attach material showing discriminatory teaching materials being pushed by teachers' union members in Oakland, CA (Ex. 11). Finally, I attach anti-Israel resolutions and statements being pushed by the SEIU's medical intern and resident division (known as CIR-SEIU), the National Education Association, and SEIU Local 1199. (See Ex. 12).

The bottom line is this: No worker in America should be threatened with discharge from his or her workplace for refusing to pay dues and fees to a private organization he or she may despise. No worker should be forced to be represented by a private organization and its officials who perform poorly in the workplace, or place their own interests above those they purport to represent, or act corruptly to steal from the very employees they claim to represent, or who espouse hateful rhetoric and pro-terrorist policies. No worker should be forced to subsidize, as a condition of employment, the political schemes and candidates of a private organization of which they disapprove.

Yet that is the reality for millions of private sector workers today under the compulsory dues and monopoly bargaining regimes of the NLRA and the Railway Labor Act. In the face of this abuse, Title VII of the Civil Rights Act and the *Beck*

decision are not nearly strong enough protections of employees' rights. As long as unions can force workers to pay *anything* to get or keep their job, employees will be denied their full freedom of association, speech and conscience. The *Janus* decision was a small step for employee freedom in the public sector. Now this Congress must pass the National Right to Work Act in the private sector to end the problem of coercive forced unionism, and the particular problem of compelling Jewish and other religious employees to fund unions whose views and activities they find hateful, threatening and deeply offensive.

The National Right to Work Act does not complicate federal labor law. Rather, it repeals one legal section passed in the 1940's that restricts individual employees' free choice about funding unions. Restoring individual employees' right to provide or withhold money from unions would hold Hamas-supporting unions (and indeed, all unions) accountable to the workers they claim to represent. Employees who like their anti-semitic and anti-Israel unions can keep them. But employees who don't want anything to do with these hateful ideologies should be able to defund and disaffiliate from them. What could be more American than that?