



August 6, 2009

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed on February 2, 2009, with the Department of Labor alleging that a violation of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U.S.C. §§ 481-484, occurred in connection with the election of officers conducted by the International Brotherhood of Teamsters (IBT), Local 142 (local or union) on November 24, 2008.

The Department of Labor (Department) conducted an investigation of your allegation. As a result of our investigation, the Department has concluded, with respect to your allegation, that there was no violation of the LMRDA.

You alleged that you were improperly ruled ineligible to run for the office of secretary-treasurer because you were an owner or supervisor. Section 401(e) of the LMRDA requires a labor organization to allow members in good standing to run for office subject to reasonable qualifications. 29 U.S.C. § 481(e). While this statutory section does not prohibit supervisors from running for office, the Department's regulations indicate that unions may place limits on office holding by owners and supervisors and provides, as follows:

. . . An overall consideration in determining whether a member may fairly be denied the right to be a candidate for union office as an employer or supervisor is whether there is a reasonable basis for assuming that the person involved would be subject to a conflict of interest in carrying out his representative duties for employees and rank and file union members.

29 C.F.R. § 452.47.

The Department looks to the union's constitution and bylaws for the requirements to run for office. The IBT Constitution places limitations on the eligibility requirements for members who hold supervisory positions. Article II, Section 2(g) of the IBT Constitution provides:

Local unions and other subordinate bodies are authorized, through duly adopted Bylaws and with the approval of the General President, to place such specific limitations as the circumstances warrant on the right of members who hold supervisory positions to participate in the affairs of their organizations, but such members shall not be permitted to hold office, unless permitted by federal, state, local or provincial law.

The International interprets this provision as prohibiting supervisors from holding office and also interprets it to include individual members who are also officers of corporations, which either is under contract with companies that are a signatory to collective bargaining agreements with Teamsters affiliates or which are themselves parties to such collective agreements.

The investigation established that you acknowledged prior ownership of Benedict Ltd. , and that you served as the president from June 2001 through October 1, 2008. You further acknowledged that as president of Benedict Ltd., you were authorized to sign a leasing agreement with your employer, Omega Trucking, a company party to a collective bargaining agreement with Local 142, and, pursuant to such agreement, you leased seven trucks to Omega.

The investigation revealed that the local declared you ineligible for office based on your status as the owner and operator of Benedict Ltd., your contractual relationship with your employer, Omega Trucking, and the fact that you direct and determine who shall drive your leased trucks.¹ The interpretation consistently placed on a union's constitution by the responsible union official or governing body will be accepted unless the interpretation is clearly unreasonable. See 29 C.F.R. § 452.3. The Department determined that the union's interpretation of its requirements for office and its decision to rule you ineligible for office was not clearly unreasonable.

The investigation revealed that one of the rights of the union position you sought to run for is to serve on the negotiating committee for the construction contract that establishes the hourly wage rate of the drivers of trucks leased by Omega Trucking and other companies. The investigation also determined that the agreement to supply trucks between Omega Trucking and companies such as Benedict Ltd. provide for an hourly truck rate for the use of the trucks. This hourly truck rate is negotiated between companies such as Benedict Ltd., which is owned by your wife, and Omega Trucking. The hourly truck rate is paid to a company such as Benedict Ltd. minus the leased truck drivers' wages as established by the construction contract. As such, companies such as

¹ The Department notes that the IBT's position concerning employer status may differ from that of the local in the future if complainant is not the owner of record for the 24-month period prior to the next election.

Benedict Ltd. make money based upon the difference between the hourly truck rate and hourly wage rate established by the construction contract. The larger the gap between the truck rate and the wages, the larger resulting profits for the brokers. Thus, as a potential negotiator and signatory of the construction contract, you would be in a position to negotiate the hourly wage rate for drivers and, at the same time, your wife would benefit from the truck rate that Omega would negotiate with her, or any of the other truck owners. This is the type of conflict of interest described in the Department's regulation. 29 C.F.R. § 452.47. Under these circumstances, the Department determined that the union properly ruled you ineligible for office under Article II, Section 2(g) of the union's constitution.

For the reasons set forth above, the Department has concluded that there was no violation of Title IV of the LMRDA, and I have closed the file regarding this allegation.

Sincerely,

Cynthia M. Downing
Chief, Division of Enforcement

cc: James P. Hoffa, General President
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