



May 21, 2009



Dear [REDACTED]:

This letter is in response to your complaint filed with the Department of Labor on March 9, 2009. In the complaint, you alleged that violations of Title IV of the Labor-Management Reporting and Disclosure Act (Act), 29 U.S.C. 481-484, occurred in connection with the election of officers conducted by Teamsters Local 377 (Local 377) on January 16, 2009.

For the reasons that follow, the Department is closing its file on this matter because, at the time pertinent to your complaint, you were not a "member in good standing" of Local 377, a condition required to invoke the Department's enforcement authority under Title IV of the Act. Section 3(o) of the Act, 29 U.S.C. 402(o), defines both "member" and "member in good standing" as a person who has both fulfilled the requirements for membership in the organization and "who neither has involuntarily withdrawn from membership nor has been expelled from membership after appropriate proceedings consistent with lawful provisions of the constitution and bylaws of such organization."

The International Brotherhood of Teamsters Constitution (International Constitution) defines "good standing," in part, as "actively employed at the craft within the jurisdiction of [a] Local Union..." "Continuous good standing" means ... the payment of dues for twenty-four (24) consecutive months, together with no interruptions in active membership ... because of withdrawals" Article II, sec. 4(a)(1). The International Constitution also provides: "When a member becomes unemployed in the jurisdiction of the Local Union, he shall be issued an honorable withdrawal card upon his request. If no request is made, an honorable withdrawal card must be issued six (6) months after the month in which the member first becomes unemployed." Art. XVIII, sec. 6(a). It continues: "In any case where a Local Union is required to give to a member an honorable withdrawal card ..., it may provide for the continuance of Local Union benefits ..., but such inactive member shall not be permitted to hold office or vote, and shall have only such right to participate in the meetings and the affairs of the Local Union, as shall be uniformly permitted by the Local Union Executive Board." Art. XVIII, sec. 6(c). Local 377's bylaws are consistent with the cited provisions of the International Constitution. See Bylaws of Teamsters Local 377, sec. 17, 20.

The issuance of the withdrawal card changed your status as a member in good standing of Local 377. See *Reich v. Local 30, Teamsters*, 6 F.3d 978, 985, 988-990 (3d Cir. 1993). At issue in that case was the union's determination that a candidate was ineligible because he had been issued a mandatory withdrawal card thereby preventing him from meeting the union's continuous working at the craft requirement. The court rejected the argument that this rule violated the LMRDA or its interpretation by this Department. Although the issue there involved candidate eligibility, as distinct from an individual's status to maintain a complaint under the LMRDA, in each instance, the union's determination of "good standing" is of paramount importance. If the union's rule is reasonable and not otherwise contrary to the Act, the union's rule is controlling for both purposes.

As disclosed by the Department's investigation and consistent with your own statement to its investigator, you have not been employed at a craft within Local 377's jurisdiction for several years. During most of this time, you were employed by the local and thereby exempted from the working at the trade requirement. See International Constitution, Article II, sec. 4(e). However, your employment with Local 377 ended about December 2007. Between that time and your filing of the complaint in this matter, you were neither employed by Local 377, an affiliate of the Teamsters, nor an employer represented by Local 377. Furthermore, consistent with Article XVIII, sec. 6(a) of the International Constitution, Local 377 issued you a withdrawal card in July 2008. In your interview with the Department's investigator, you admitted that the issuance of the card was not improper and its issuance plainly conforms to the controlling provision in the Teamsters International Constitution. Additionally, you have not challenged the issuance of the withdrawal card, as distinct from your dissatisfaction with the union's failure to waive this requirement as a condition for eligibility or participation in the election, or offered any evidence that your status had changed at the time of the election. Thus, for these reasons and under the particular circumstances presented,¹ we have concluded that the Department lacks jurisdiction to consider the various allegations raised by your complaint and upon this ground closes its file on this matter without reaching the merits of such allegations.

Sincerely,

Cynthia M. Downing
Chief, Division of Enforcement

cc: James P. Hoffa, General President
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¹ If the circumstances were different, *i.e.*, that the issuance of the withdrawal card was improper or you had challenged the issuance of the withdrawal card and that issue had been unresolved at the time you filed the complaint, the Department would possess enforcement authority over your complaint.