



June 17, 2010



Dear [REDACTED]:

This Statement of Reasons is in response to the complaint that you filed with the United States Department of Labor (the "Department") on April 22, 2010, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959, as amended ("LMRDA"), 29 U.S.C. §§ 481-484, occurred in connection with the election of officers of Local 699 ("the Local"), United Automobile, Aerospace and Agricultural Implement Workers of America International Union, AFL-CIO ("UAW") completed on May 15, 2009.

The Department conducted an investigation of your allegation and has concluded that no violation occurred.

You alleged that the Local improperly disqualified you from running for the office of president because you failed to meet the eligibility requirement of continuous good standing. Article 38, Section 3 of the UAW Constitution states that to be eligible for election to any office in a Local Union, a member must be in continuous good standing in the Local Union for one year immediately prior to the nomination for office. In this case, the one year period encompasses April 15, 2008 to April 14, 2009. Specifically, the Local determined that you had not maintained continuous good standing due to your failure to timely pay dues since November 2008. You contend that you satisfied the requirement and were qualified to run for office as you were out of work and entitled to out-of-work credits in lieu of dues payment. Moreover, the union failed to inform you of the expiration of the out-of-work credits and of your obligation to either resume dues payments or recertify your eligibility for out-of-work credits.

Section 401(e) of the LMRDA provides, among other things, that every member in good standing shall be eligible to be a candidate and to hold office subject to "reasonable qualifications uniformly imposed." 29 U.S.C. § 481(e). "Continuous good standing" based on punctual payment of dues is considered a reasonable qualification if it provides a reasonable grace period during which members may make up missed payments without the loss of eligibility for office, and the period of time involved is reasonable. 29 C.F.R. § 452.37.

In this case, the UAW Constitution, Article 16, Section 8, provides that a member is not delinquent in dues payment and maintains good standing if he pays dues during the calendar month in which they are due. In addition, Section 18 also provides that a member who is discharged is automatically considered entitled to out-of-work credits which exempt the member from dues payment for the period of his entitlement. Further, Article 16, Section 19 provides that one who is entitled to out-of-work credits remains in continuous good standing without the necessity of paying dues for six months unless the member has had employment during this period which would necessitate paying dues. However, unless the member certifies in writing to the local financial secretary, during the last 10 days of the six-month period, that he continues to be eligible for good standing membership without payment of dues, the member shall be automatically noted in the Local's records as having been issued an honorable withdrawal transfer card at the conclusion of the six-month period.

The investigation disclosed that your employer, GM/Nexteer, discharged you on May 16, 2008. The Local grieved your discharge and obtained your reinstatement, effective May 21, 2009. During the time you were out-of-work, you did not pay dues. In addition, following the lapse of the six-months out-of-work credits period in November 2008, you did not certify your eligibility for continued good standing without paying dues as required by Article 16, Section 19. Moreover, in September 2008, you obtained other employment but did not resume dues payment. Therefore, at the time of nomination you were delinquent in dues payments and did not meet the continuous good standing requirement to be eligible to run for office. Neither the Local's governing documents nor the LMRDA would require the union to provide you notice in this instance. There was no violation of the LMRDA.

For the reasons set forth above, it is concluded that the Department cannot bring an action under section 402 of the LMRDA, and I have closed the file in this matter.

Sincerely,

Cynthia M. Downing
Chief, Division of Enforcement

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