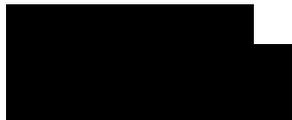




October 20, 2010



Dear [REDACTED]:

This Statement of Reasons is in response to the complaint that you filed with the United States Department of Labor ("Department") on July 2, 2010, alleging that a violation of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 ("the Act"), as amended 29 U.S.C. §§ 481-484, occurred in connection with the election of officers for Local 500 (the "Local") of the Laborers International Union of North America ("LIUNA"), completed on May 30, 2010.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded that there was no violation of the Act.

You allege that the Local improperly found you to be ineligible to run for office in the May election. Specifically, you contest the Local's finding that you had not been "working at the calling" for the year prior to nominations.

Article V, Section 4 of the LIUNA Uniform Local Union Constitution dated September 11-15, 2006 states:

No one shall be eligible to hold any office in the Local Union if the person has not been regularly working at the calling of the International Union during the entire year immediately prior to nomination. "Working at the calling" shall be defined to include:

- a. Employment for which the Union serves, or is actively seeking to serve, as the exclusive collective bargaining representative of employees;
- b. Employment in a full-time official capacity for the Local Union;
- c. Employment by government or the trade union movement in a capacity directly related to the calling and one which would directly benefit the Local Union and its members except that employment by the Local Union in a clerical or administrative

position shall not be deemed to be “working at the calling.” Members who are employed in such clerical or administrative positions and are therefore ineligible from being candidates for office shall retain their rights as members to participate in the affairs of the Union, including campaigning activities, to the extent permitted by applicable law;

- d. Periods of unemployment where the member was available for and continuously and actively sought employment at the calling which shall be understood to require full compliance with the lawful rules of the referral service or hiring hall, if any, operated by the Local Union;
- e. Members who can prove they were unable to work because of temporary illness or disability of less than one year so long as that member has a reasonable expectation of returning to work in the foreseeable future.

Section 401(e) of the Act 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” and that covered elections shall be conducted in accordance with the constitution and bylaws of the union in so far as they are not inconsistent with the provisions of the Act. A requirement that candidates be employed at the trade or to have been so employed for a reasonable period is considered reasonable under the Act. *See* 29 C.F.R. § 452.41(a). Further, “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 investigation found that you were the Local’s full time janitor during the year preceding nominations. The Local, however, does not consider the janitor job’s duties, cleaning and maintaining the union hall, to be “working at the calling.” The job is not covered under a LIUNA collective bargaining agreement, you do not belong to another union, you are not compensated on a union pay scale, and you do not pay working dues to the Local. Moreover, you had not signed the out-of-work list with the Local’s hiring hall during the year preceding nominations, and your occasional work outside the office (attending meetings) did not rise to the level of official or representative duties; the Local considers it volunteer work. Further, in 2007, under very similar circumstances, the Local also found you ineligible to be a candidate for the same reason. The Local’s finding that you were ineligible to be a candidate for office in the May election is consistent with its interpretation of its constitution and not clearly unreasonable. There was no violation of the Act.

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 in this matter.

Sincerely,

Patricia Fox  
Chief, Division of Enforcement

cc: Terence M. O'Sullivan, General President  
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