



September 10, 2010

Dear |||||:

This Statement of Reasons is in response to your complaint received by the Department of Labor on May 27, 2010, alleging violations 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 re-election of officers of Local 9-772 (Local 9-772 or local), United Steel Workers International (International), conducted on February 12, 2010.

The Department of Labor (Department) has determined that your administrative complaint may not be considered because you did not exhaust the union’s internal protest procedures.

Section 402(a) of the LMRDA provides, in relevant part, that:

A member of a labor organization (1) who has exhausted the remedies available under the constitution and bylaws of such organization and of any parent body, or (2) who has invoked such available remedies without obtaining a final decision within three calendar months after their invocation, may file a complaint with the secretary within one calendar month thereafter

As such, Section 402(a) provides two methods of filing an administrative complaint, either by (1) following the protest procedures available under the union's constitution and bylaws until a final decision is obtained (final-decision), or (2) by following the union's protest procedures for three calendar months from invocation, with no final decision having been issued (invocation). A member may file an administrative complaint with the Department one calendar month after either obtaining a final decision or completing the three months of invocation of union appeals with a pending claim and no final decision.

The Local Union Elections Manual sets forth the internal exhaustion provisions for local elections. Such provisions include the following steps: A written protest to or at the

local's next regular membership meeting following the election at which the election committee report is read and the membership renders a decision about the merits of the protest. An adverse decision must be appealed to the International Secretary Treasurer within ten days of the membership's decision for consideration by the International Executive Board. Further appeal is to the International Convention, via the International Secretary Treasurer, within 30 days after notice of the International Executive Board's decision. See II. Explanation and Interpretation of Provisions of the International Constitution, Reports, Protests and Appeals, p. 45.

The investigation disclosed that you raised thirteen allegations in your February 14, 2010, protest to the local regarding its February 12, 2010, re-run election. You withdrew two of those allegations and those allegations therefore may not be brought before the Department. At the membership's February 15, 2010 meeting, your protest was read to the membership, which denied eight of the remaining eleven allegations. You did not pursue an appeal on these eight allegations, as required under either the final-decision or invocation provisions set forth under section 402(a). Consequently, these allegations are dismissed for failure to exhaust.

The membership upheld three of your allegations. However, several members appealed to the International, challenging the membership's decision. On April 22, 2010, the International Executive Board (IEB) issued a decision, overturning the membership's decision and certifying the election. The IEB's decision was disclosed to the local's membership at its April 26, 2010 meeting. The investigation disclosed that you attended that meeting and did not appeal the IEB's decision to the International Convention. You filed an administrative complaint with the Department on May 27, 2010, which was received that same date.

Your complaint to the Department concerning these three allegations does not meet the exhaustion requirements of section 402(a) of the LMRDA, either under the final-decision or the invocation provision. 482 U.S.C. § 482(a).

First, you had notice of the IEB's decision on April 26, 2010, when you attended the local's membership meeting. You had thirty days from April 26th to take the final step of appeal to the International Convention before filing an administrative complaint and you did not do so by May 26. As you did not exhaust the union's internal protest procedures, you may not file a complaint under the final-decision provision of section 402(a)(1) of the LMRDA.

Second, your administrative complaint is not permitted under the invocation provision set forth in section 402(a)(2). In order to file a complaint under this subsection, you were required to have invoked the union's internal protest procedure without getting a final decision and to file a complaint with the Secretary during the fourth month that

the protest was pending before the union. However, when you filed your complaint with the Secretary on May 27, you had been notified of the disposition of your complaint on April 26 and had not filed an appeal to the International Convention within 30 days. As such, you did not have a protest pending with the union at the time you filed your complaint with the Secretary. Consequently, the Secretary does not have the authority to consider your complaint under the invocation provision of section 402(a)(2) of the LMRDA.

For the reasons set forth above, it is concluded that your complaint to the Department may not be considered because you failed to exhaust your internal union remedies and I have closed the file in this matter.

Sincerely,

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Chief, Division of Enforcement

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