



November 12, 2010

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed on June 23, 2010. You alleged that a violation of Title IV of the Labor Management Reporting and Disclosure Act of 1959 ("LMRDA" or "Act"), 29 U.S.C. § 481-484, occurred in connection with the Laborers International Union of North America ("LIUNA") Local 288 ("Union") election held on June 11, 2010.

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

You alleged that the Local improperly denied you the right to run for union office. The LMRDA provides that all members in good standing of a labor organization are eligible to run for office, subject to 29 U.S.C. § 504 (barring persons convicted of certain crimes) and reasonable qualifications requirements uniformly imposed. 29 U.S.C. § 481(e). The Department's interpretative regulations recognize that an eligibility requirement restricting the ability of supervisors to be candidates may be a reasonable qualification requirement. *See* 29 C.F.R. § 452.47. LIUNA has such a rule in its "Guide for Local Union Judges of Election, Officers and Members" which states, in part, that a candidate is disqualified if "[h]e or she is a supervisor on a permanent basis for his or her employer." The Union's supervisory disqualification rule follows the criterion set forth by the Department in 29 C.F.R. § 452.47 which states in part,

[S]upervisors include individuals "having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment."

The investigation revealed that the Union precluded you from candidacy based on its finding that you were a supervisor. The regulations, and cases cited therein, distinguish supervisors from foremen or leadmen and others. *See* 29 C.F.R. §452.47; *see also* 29 C.F.R. §452.91. Supervisors are generally prohibited from running for union office, while “group leaders or others performing some supervisory duties” may be allowed to run for office in certain circumstances. In this case, the Union found you to be a supervisor and not a foreman or similar lesser manager.

Based on the record evidence, the Department does not find this decision to be unreasonable. The Union’s conclusion as to your status is supported by evidence concerning your supervisory activities. The Union made a determination based on evidence that you had the authority to hire and fire employees, supervise a crew, and represent the company in grievance proceedings. While the investigation disclosed conflicting evidence concerning certain of these matters, this evidence did not establish that the Union’s determination that you were precluded from running for union office was unreasonable. Thus, there was no violation of the Act.

It is concluded from the analysis set forth above that the investigation failed to disclose any violation of the Act which may have affected the outcome of the election and upon which the Secretary of Labor may bring an action under section 402 of the Act, 29 U.S.C. § 482. Accordingly, we are closing our file on this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

cc: Terrance M. O’Sullivan, General President
Laborers International Union of North America
905 16th Street, N.W.
Washington, D.C. 20006

Larry Wright, Jr., Business Manager
Laborers Local 288
732 North Cass Avenue
Westmont, Illinois 60559

Katherine Bissell, Associate Solicitor for Civil Rights and Labor-Management