



October 27, 2011

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to the complaint that you filed with the United States Department of Labor on July 15, 2010, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) occurred in connection with the election of officers and delegates for Local 559 of the Laborers International Union of North America (LIUNA), completed on June 3, 2011.

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 LMRDA.

You allege that the Local did not timely provide your designated observer with a list of jobsites as required by Article III, Section A of LIUNA's 2011 Convention Delegate Election Rules. The Delegate Election Rules provide that no later than seven days after the nomination meeting, a local with a contested election shall prepare a list of worksites and such list shall be made available on request to a candidate. These rules were applicable to this election because one delegate to the LIUNA Convention was elected along with Local union officers.

The investigation found that nominations took place May 4, 2011. On May 12, 2011, you wrote the Local appointing [REDACTED] as your observer and requested a jobsite list. Although you did not specify in the letter to whom you wanted the jobsite list to be provided, the Local interpreted your letter as appointing [REDACTED] to receive the list on your behalf and mailed the jobsite list to [REDACTED] at his correct address on May 13, 2011. You acknowledged during the investigation that you had indeed appointed [REDACTED] to receive the list on your behalf.

The investigation found that you were at the union hall on May 16, 2011, and asked the office secretary about the jobsite list and were told it was sent to [REDACTED]. On May 19,

2011, the ballot mailing date, [REDACTED] who had not received the mailed copy of the jobsite list, was at the union hall and was given a copy of the jobsite list. He informed you of the same that day and also read the list to you over the telephone.

The investigation found no evidence that at any time you requested the list for yourself and were denied a copy or that you were denied the opportunity to campaign at jobsites due to a delay in [REDACTED] receiving the list. There was no violation of the LMRDA.

You also allege that [REDACTED] the winning vice presidential candidate, was ineligible to run for office because he did not meet the working at the calling requirement. More specifically, you allege that [REDACTED] works for an employer, the Birmingham Alabama Housing Authority, that does not have a collective bargaining agreement with the Local and was not listed on the Local's jobsite list.

Article V, Section 4 of the Uniform Local Constitution provides that candidates must be working at the calling of the International Union during the entire year immediately prior to nomination. This provision defines working at the calling as employment for which the union serves or is actively seeking to serve as the exclusive collective bargaining representative of employees.

The Local and the Special Elections Officer ruled that working at the Housing Authority meets the working at the trade requirement as defined in the constitution because the Local is actively seeking to serve as the exclusive bargaining representative of the employees there. The Department accepts "the interpretation consistently placed on a union's constitution by the responsible union official or governing body [...] unless the interpretation is clearly unreasonable." See 29 C.F.R. 452.3.

Here, the Local's interpretation of the working at the calling provision is not clearly unreasonable. Although it does not appear that there is a vigorous organizing effort at the Housing Authority, there is evidence that the Local is seeking to represent employees there and that [REDACTED] serves as an organizer.

The investigation found that the Local dispatched [REDACTED] to the Housing Authority in the late 1990's and that he became a fulltime employee in 2001. The Local has signed up other Housing Authority employees and other Local members work at the Housing Authority. The evidence also indicates that the Local has consistently taken the position that working at the Housing Authority is working at the calling. [REDACTED] work at the Housing Authority has not precluded his meeting the working at the calling requirement and being found eligible to run for union office in the past. [REDACTED] has served as president and vice-president of the Local since beginning his employment

with the Housing Authority. Moreover, the investigation found the Local's omission of the Housing Authority from the jobsite list was the result of a clerical error. There was no violation of the LMRDA.

You also allege that your observer was not timely notified of all election events. Nothing in the Local's constitution requires or sets out timelines for candidate or observer notification of election events. The LMRDA does not require that observers receive timely notice of the various aspects of the election. Consequently, failure to provide such notice did not violate LMRDA.

Here, the investigation did reveal that the Special Elections Officer ruled that to give effect to the right to observe, the Local was to provide reasonable notice of observable events. Even if this ruling could be viewed as a constitutional requirement, the evidence shows that you and your observer were given reasonable notice of election events.

The investigation found that you were at the pick-up of ballots on May 16, 2011; that you and your observer were notified in writing and by telephone that ballots would be mailed May 19, 2011; that on the morning of May 18, 2011, you and your observer received notice that the ballot preparation was to be done that morning, the last day when the ballot preparation could have occurred to ensure the May 19 ballot mailing; and that you were notified by telephone on May 20, 2011, of the dates on which undeliverable ballots would be picked up from the post office. Further, you acknowledge that there were no events of which you were not notified. There was no violation of the LMRDA.

For the reasons set forth above, the Department has concluded that there was no violation of Title IV of the LMRDA, and we have closed the file in this matter.

Sincerely,

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Chief, Division of Enforcement

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