



October 05, 2017



Dear [REDACTED]:

This Statement of Reasons responds to your complaint received by the United States Department of Labor (Department) on May 17, 2017, alleging that a violation of Title IV of the Labor Management Reporting and Disclosure Act of 1959 (LMRDA) occurred in connection with the May 24, 2017 election of local officers of Laborers International Union of North America (LIUNA) Local 582.

The Department investigated your allegation. As a result of the investigation, the Department has concluded, with respect to your specific allegation that no violation occurred which may have affected the outcome of the election.

In your complaint, you contended that the union denied you the right to be a candidate for President and delegate, in violation of Section 401(e), when it declared you ineligible based on your supervisory status as a working foreman. Section 401(e) provides that every member in good standing is eligible to be a candidate and to hold office, subject to section 504 and reasonable qualifications uniformly imposed. The Department's regulation at 29 C.F.R. § 452.47 explains that union members who have supervisory duties may have limited rights to run as candidates for office. The regulation further explains that the overall consideration in determining whether a member is a supervisor is "whether there is a reasonable basis for assuming that the person involved would be subject to a conflict of interest in carrying out his representative duties for employees and rank and file members."

The Department's investigation revealed that Local 582 required all candidates to complete a candidate questionnaire that sought information concerning, among other things, the potential conflict of interest posed by any supervisory duties candidates may have in their employment. On the questionnaire, you indicated that you were "able to hire, fire, suspend or transfer other employees," had "the ability to assign work within the company and direct the performance of that work," and were "able to promote, reward, or discipline employees." Because the local's election judges believed these

responses to be indicative of supervisory status and a conflict of interest, they provided you two opportunities to explain and submit additional information to help inform their decision concerning your eligibility. The Department's investigation disclosed that your answers to the judges' questions did not detract from, but rather reinforced, your responses on the questionnaire; in fact, you provided various, specific examples of your supervisory functions. The judges also considered your higher pay, company vehicle privileges, and company credit card privileges to be secondary indicators of your supervisory status. As a result, the judges concluded that your duties were consistent with those of a supervisor and disqualified you as a candidate; the Special Hearings Panel agreed.

The Department's investigation revealed further evidence of your supervisory status, i.e., that you responsibly direct other employees using independent judgment. In this regard, you are able to make decisions at the worksite directing the work of your crew members; you are authorized to decide which job should be done next at the job site and who should do it; and you are held accountable for the overall work at the job site. The Department's investigation found Local 582 had a reasonable basis to conclude that you exercise supervisory authority, and, more importantly, that your responsibility to your employer would conflict with carrying out the representative duty for employees and rank and file union members. Therefore, the Panel did not violate Section 401(e) of the LMRDA when it disqualified you as a candidate.

For the reasons set forth above, it is concluded that no violation of the LMRDA occurred. Accordingly, the office has closed the file on this matter.

Sincerely,

Sharon Hanley
Chief, Division of Enforcement

cc: Terry O'Sullivan, General President
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