

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

99-CV-915-A

LABORERS' LOCAL 210 OF THE  
LABORERS' INTERNATIONAL UNION OF  
NORTH AMERICA, AFL-CIO, BUFFALO, NEW YORK,

Defendant.

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**APPLICATION FOR DISCHARGE OF COURT LIAISON OFFICER  
AND FINAL ORDER OF DISMISSAL**

THE UNITED STATES OF AMERICA, by and through its attorneys, Kathleen M. Mehlretter, Acting United States Attorney for the Western District of New York and Charles B. Wydysh, Assistant United States Attorney; and Bruce G. Ohr, Chief, Organized Crime and Racketeering Section, United States Department of Justice; and Laborers Local 210, by and through its Business Manager, William Hoffman, and counsel, Andrew Gorlick, Esq.; and John J. McDonnell, court-appointed Liaison Officer for Laborers Local 210; hereby moves the Court for an order discharging the court-appointed Liaison Officer, John J. McDonnell, and for a Final Order of Dismissal, for the reasons set forth below.

BACKGROUND

In February 1995, the United States and Laborers' International Union of North America ("LIUNA"), AFL-CIO, Buffalo, New York, entered into an agreement whereby LIUNA agreed to engage in internal reforms designed to eliminate corruption and the influence of organized crime under the oversight of the Department of Justice. As part of this internal reform program, LIUNA adopted an Ethics and Disciplinary Code and hired a team of former federal prosecutors and investigators to administer the internal reform process which consists in part of the General Executive Board ("GEB") Attorney who prosecutes charges and the Inspector General who investigates charges.

On November 18, 1999, the United States of America commenced an action in the Western District of New York by filing a Complaint against defendant Laborers Local 210 of LIUNA, AFL-CIO, Buffalo, New York, so that the United States could obtain equitable and injunctive relief under the Civil Remedies provisions of the Racketeer Influenced and Corrupt Organizations Act (RICO), Title 18, United States Code, Section 1964(a), including the appointment of a Court Liaison Officer to oversee the operations of Laborers' Local 210.

The United States alleged in its complaint that until LIUNA, by and through the GEB Attorney, placed Local 210 under supervision and removed the Local's officers in 1996, the affairs of Local 210 were influenced and controlled by organized crime; that officers, employees, and certain members of Local 210 were members of, associated with, and influenced by organized crime figures; and that organized crime had continued its efforts to exert control and influence over Local 210 up to November 18, 1999.

On December 8, 1999, Denise E. O'Donnell, then United States Attorney, Western District of New York, and Bruce G. Ohr, Chief, Organized Crime and Racketeering Section, United States Department of Justice, Local 210, by and through Steven Hammond, LIUNA-appointed Trustee for Local 210, entered into a Consent Decree in settlement of the action filed on November 18, 1999, wherein it was agreed that while the efforts of the LIUNA-appointed Supervisor and Trustee had resulted in substantial progress toward reform of Laborers Local 210, they had not achieved their goal of eliminating the threat of LCN influence and LCN in the conduct of the affairs of Local 210. Accordingly, the parties agreed that the LIUNA-appointed Trustee of Local 210 should remain in place and continue the implementation of programs to advance the interests of the Local 210 rank and file. However, the parties agreed that the unusual and historical conditions at Local 210 required

extraordinary measures, including the assistance of a Court-appointed officer with powers and resources not available to a union-appointed supervisor or a trustee, to work with the United States and Local 210.

On January 24, 2000, Honorable Richard J. Arcara, United States District Judge, Western District of New York, approved the Consent Decree and appointed John J. McDonnell as the Court Liaison Officer (hereinafter "CLO") for Laborers' Local 210. As noted, the Consent Decree provided, inter alia, that "upon final discharge of the Liaison Officer, or his replacement, by Order of the Court, this consent decree is in full settlement and satisfaction of any and all civil claims by the United States Attorney for the Western District of New York against Local 210 on account of the facts and events alleged in the Complaint . . . ." A copy of the Consent Decree containing the Liaison Officer's responsibilities, duties and powers is attached hereto as Exhibit A.

The CLO's term extended for a period of sixty (60) months from the date of his appointment, January 24, 2000, except that the Court Liaison's term could not expire prior to 1 year following certification of an election of new officers at Local 210. Moreover, it was specifically agreed that the Liaison Officer may

continue and complete any matters initiated before the termination of his term.

It was further agreed that the CLO would have powers, rights and responsibilities relating to review of expenditures, contracts, litigation and appointment of officers and employees. The CLO also was provided access to information regarding Local 210 and its employee benefit plan funds, to issue subpoenas and to refer disciplinary proceedings to the LIUNA Inspector General or the GEB. With regard to elections, the CLO had the responsibility to determine when to hold elections, the fitness of candidates, the procedures for holding elections and the review of results of elections including its certification or, with the Court's approval, setting aside of such elections. The CLO also was obligated to file reports with the Court on a biannual basis.

After assuming office, the Liaison Officer continued the reforms previously begun by the LIUNA-appointed Supervisor and Trustee to reform Local 210 and also implemented additional reforms. The Court Liaison Officer's reforms are detailed in his reports submitted to this Court.

By way of illustration, the Court Liaison Officer undertook the following actions:

1. After meeting with the general membership upon assuming his post, the CLO established an open-door policy including a private "hot line" for member concerns.

2. The training center increased all phases of training including shop steward certification training. Numerous additional training courses were also made available to the members.

3. An operating budget was developed with financial matters routinely discussed at weekly staff meetings.

4. A local certified public accounting firm was hired to conduct accounting, auditing and record-keeping procedures.

5. The CLO replaced all vendors working for the union before 1996. The CLO also hired a local law firm to handle normal union matters.

6. An employee manual was established covering virtually all aspects of employment.

7. Telephone and computers were updated and functional office space and furniture were added. The CLO also re-organized

office records with new policies adopted in documenting communications with various business-related contacts.

8. New employee job descriptions were written defining the duties and responsibilities of all employees.

9. Efforts were initiated to educate political and community leaders as to the improvements at the union.

10. Upon taking office, the CLO disciplined three employees for unprofessional conduct or lack of due diligence. Two other union members were disciplined by the CLO for a violation of the union picket line guidelines.

Within a year of taking office, the CLO authorized the election of Local 210 officers. These elections, held on January 12, 2001, were the first contested elections since 1973. As part of the election process, the CLO instituted a candidate questionnaire, a nominations meeting, a candidates' debate and the monitoring of the polling process. Following certification of the election on April 12, 2001, the LIUNA-imposed trusteeship of Local 210 terminated.

After the election, the CLO continued to implement procedures designed to improve all aspects of union activity. An aggressive labor contract enforcement program was instituted. Training for newly elected union officers and executive board members was provided concerning the LIUNA Constitution, union administration, required reporting and disclosures to the Department of Labor, procedures before the National Labor Relations Board, labor contract negotiation and the administration of grievance procedures pursuant to such contracts. Weekly staff meetings were scheduled and membership committees were formed to deal with political, financial, organizing and community issues. An employee expense voucher system and regulations were developed. The CLO also spearheaded a more aggressive approach to eliminating delinquent contractor contributions to union-sponsored employee pension and welfare benefit plans. The CLO also assisted in collective bargaining activities which resulted in one of the highest wage increases in Local 210's history.

On June 12, 2004, Laborers' Local 210 conducted a second election of officers. On September 16, 2004, the Liaison Officer certified to the Court the results of the election. Following the election of June 12, 2004, CLO John J. McDonnell, Business Manager William Hoffman, and members of the Executive Board for Local 210 met to discuss the results of the elections, as well as the

progress made to rid Local 210 on LCN influence. As a result of those discussions, it was agreed that the term of the CLO should be extended in order to afford the CLO an opportunity to complete matters initiated before the termination of the CLO term and the need to assist the newly elected officers in their duties to achieve a smoothly running union.

While many of the officers who were elected in the 2004 election held officer positions as a result of the prior election on January 12, 2000, many of the officers' positions had changed and three new members of the executive board had been elected. It was determined that in order for the officers to function at the highest level of efficiency and responsibility, guidance, training and oversight would be needed from the CLO.

Moreover, it was determined that because there was spirited opposition during the election by those loyal to the former insurgents who organized opposition to the supervisor's assumption of control over Local 210 in March, 1996, oversight by the CLO would be indispensable in securing 210 from the reaches of organized crime influence.

Therefore, in order to continue these advancements, on application of the parties, the United States and Laborers' Local

210, this Court ordered on March 8, 2005, that the term of CLO John J. McDonnell, be extended to January 24, 2006.

Based upon the substantial progress and reforms detailed in the Report and Recommendation of CLO John J. McDonnell, dated December 20, 2005, a copy of which is attached, all parties to this litigation agree that the objectives of the litigation and Consent Decree have been substantially achieved. As noted, through the CLO's efforts in promoting fairness and reward based on merit, the CLO has enabled the union, consistent with its constitution, to pursue the principles of democracy and a free flow of ideas. He has endeavored through a series of programs to remove nepotism and patronage from the hiring procedures and officer elections. The CLO has instituted widespread financial reform impacting on all aspects of the union and its related employee benefit plan funds bringing accountability and responsibility to their fiscal operations. The CLO has initiated programs to educate, improve, and expand the laborers' skills to make the union more competitive and sought after in the construction market. Through his efforts to promote and publicize the union's accomplishments and achievements, he has dispelled negative connotations formerly associated with the union and has set the union on a course of gaining a reputation for honesty, responsibility and an efficient, hard-working and highly competent workforce.

**REQUEST FOR RELIEF**

Accordingly, consistent with the terms of the Consent Decree, it is requested that John J. McDonnell be relieved of the duties of Court Appointed Liaison Officer of Laborers Local 210 and that all powers and authority of the Officers and General Executive Board of Local 210 previously transferred to the former Court Liaison Officer pursuant to the Consent Decree are hereby acknowledged to have been restored to the Officers and General Executive Board of Local 210 which shall function in accordance with the LIUNA Constitution and the Constitution and By Laws of Local 210.

However, the United States and Laborers Local 210 further agree that all current and future officers, agents, employees, representatives and other persons holding positions of trust in Local 210 have a continuing fiduciary duty to the membership in insuring that Local 210 remains free from corruption and the influence of criminal groups as well as promoting democratic participation of union members in union affairs as guaranteed by the Labor-Management Reporting and Disclosure Act. Therefore, it is further agreed and requested that the Final Order of Dismissal reincorporate the Injunctive Prohibitions of the Consent Decree and that any officer, agent, employee, representative or other person holding a position of trust in, and any member of, Local 210 who

violates (a) any permanent injunction or order entered in this action, and/or (b) any injunctive provision of the Final Order of Dismissal, shall, in addition to other sanctions or penalties, be subject to the contempt powers of this Court which upon notice, order to show cause and evidentiary hearing could include remedies beyond fines and incarceration for contempt when such remedies are warranted including removal, suspension or expulsion from office and/or the union by the Court.

Moreover, the United States and Laborers Local 210 further agree that, upon a showing to the Court pursuant to any application by the United States that there is good and sufficient demonstration that systemic corruption or organized crime influence exists in Laborers' Local 210 and/or its affiliated entities, the Court may order such relief as is necessary and proper including reinstatement of a court appointed liaison officer or other Monitor approved by the Court.

Consistent with the objectives of the Consent Decree, the parties request that the Court issue an order dismissing the action brought within this case.

DATED: Buffalo, New York, January 25, 2006.

Respectfully submitted,

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Acting United States Attorney

BY:

s/CHARLES B. WYDYSH  
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s/Bruce G. Ohr by Charles B. Wydysh  
BRUCE G. OHR  
Chief, Organized Crime  
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U.S. Department Of Justice

s/WILLIAM HOFFMAN  
Business Manager  
Laborers' Local 210

s/ANDREW GORLICK, ESQ.  
Laborers' Local 210

s/JOHN J. McDONNELL  
Court Appointed Liaison Officer  
Laborers' Local 210

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 25, 2006, I electronically filed the foregoing **APPLICATION FOR DISCHARGE OF COURT LIAISON OFFICER AND FINAL ORDER OF DISMISSAL** with the Clerk of the District Court using its CM/ECF system, and I mailed the foregoing, by the United States Postal Service, to the following non-CM/ECF participants:

John J. McDonnell  
Court Appointed Liaison Officer  
Laborers' Local 210  
2750 Harlem Road  
Buffalo, New York 14225

William Hoffman  
Business Manager  
Laborers' Local 210  
2750 Harlem Road  
Buffalo, New York 14225

Executive Board  
Laborers' Local 210  
2750 Harlem Road  
Buffalo, New York 14225

s/KEA D. STRATE