

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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.

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

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FILED
U.S. DISTRICT COURT
W.D.N.Y. BUFFALO

WHEREAS, this matter was opened to the Court by the Report and Recommendation of John J. McDonnell, Court Appointed Liaison Officer for Laborers' Local 210; and 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.; joined in the Liaison Officer's recommendation;

WHEREAS, the Court has considered the Report and Recommendation of the Liaison Officer and joint application of the United States and Local 210;

WHEREAS, the parties recognize that Laborers' Local 210 historically suffered from a serious laborer racketeering problem as discussed in this Court's Decision and Order, dated January 24, 2000 ("2000 Consent Decree");

WHEREAS, the racketeering problem necessitated the appointment of the Court Liaison Officer to monitor and oversee certain operations of Laborers' Local 210, the ultimate objective of which was to create conditions at Laborers' Local 210 that make the Union resistant to organized crime penetration and influence and protect against the re-emergence of any racketeering problems;

WHEREAS, the parties recognize that the objectives of the 2000 Consent Decree, as approved by the Court on January 24, 2000, and extended on March 8, 2005, have been substantially achieved;

WHEREAS, the parties agree that Laborers' Local 210 should be free from the influence of organized crime and other corrupting elements;

WHEREAS, the parties intend to preserve and promote conditions within Laborers' Local 210 that will protect against the re-emergence of an externally induced racketeering problem; and

WHEREAS, the parties agree that this objective can best be obtained by the implementation of this Order of Discharge and the Court finds that good cause appears for the relief requested;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

JURISDICTION

1. The Court shall retain exclusive jurisdiction over the parties of this Order and the original consent decree in order to enforce and implement the terms and provisions of this order and the original consent decree. This Order is binding on all current and future officers, members, employees and persons holding positions of trust in Laborers' Local 210 and its affiliated entities.

TERMINATION OF THE COURT APPOINTED LIAISON OFFICER

2. All powers, obligations and authority previously granted to the Court Appointed Liaison Officer under prior orders of the Court are hereby rescinded and terminated. John J. McDonnell is hereby relieved of the duties of Court Appointed Liaison Officer of Laborers' Local 210 and the position of Court Appointed Liaison Officer is dissolved.

3. Except as provided in ¶ 8, below, all powers and authority of the Officers and Executive Board of Laborers' Local 210 previously limited or transferred to the Court Appointed Liaison Officer under prior orders of the Court are hereby restored to the Officers and Executive Board of Laborers Local 210. The Officers and Executive Board shall function in accordance with the Constitution and By-Laws of Laborers' Local 210 and the Laborers' International Union of North America, AFL-CIO.

DUTIES OF LABORERS' LOCAL 210 OFFICIALS

4. All current and future officers, agents, employees, representatives and persons holding positions of trust in Laborers' Local 210 are reminded of their heightened fiduciary duty to the membership to insure the independence and the integrity of Local 210 and its affiliated entities free from corruption and the influence of criminal groups as well as to promote democratic participation of union members in union affairs as guaranteed by the Labor-Management Reporting and Disclosure Act. Each such official has an affirmative and continuing obligation to be vigilant with respect to preventing and otherwise detecting and remedying the types of derelictions, abuses and corrupt practices which the various court opinions have identified as having contributed to the racketeering problems of the past.

INJUNCTIVE PROHIBITIONS

5. All current and future officers, agents, employees, representatives, and persons holding positions of trust in Laborers' Local 210, as well as all current and future members of Laborers' Local 210, are permanently enjoined:

- a. from committing any crime listed in 18 U.S.C. § 1961(1);
- b. from knowingly associating with any member or associate of organized crime or with any barred person;
- c. from knowingly permitting any member or associate of organized crime or any barred person to exercise any control or influence, directly or indirectly, in any way or degree, in the conduct of the affairs of Laborers' Local 210 or its affiliated entities.

I. As used in this Order, the term "knowingly associating" shall be governed by the definition contained in the 2000 Consent Decree and mean that:

- (1) an enjoined party knew or should have known that the person with whom he or she was associating is a barred person;
- and (2) the association was more than fleeting or casual;
- and (3) the association related directly or indirectly to the affairs of the union.¹

¹ Nothing in this Paragraph shall preclude:

- (a) an enjoined party from meeting or communicating with a barred person who is an employer to discuss the negotiation, execution, or management of a collective bargaining agreement, or a labor dispute, when the

ii. As used in this Order, a "barred person" is: (a) any member or associate of any La Cosa Nostra crime family or other criminal group, or (b) any person prohibited from participating in union affairs.²

d. from participating, directly or indirectly, in any way or degree, in the conduct of the affairs of Laborers' Local 210 or its affiliated entities if the participant has been prohibited from participation in the affairs of another union.

enjoined party represents, seeks to represent, or would admit to membership the employees of that employer;

(b) an enjoined party from meeting or communicating with a barred person who is a representative of a labor organization to discuss legitimate union matters;

(c) an enjoined party from meeting or communicating with an officer, employee, or member of LIUNA and its affiliated entities; and

(d) an enjoined party from meeting or communicating with a relation by blood or marriage for solely social purposes, provided that in all such instances, reasonable prior notice of such meeting or communication is furnished to the Business Manager of Laborers' Local 210 or, if prior notice is not practicable, such notice is provided within seven days following the meeting or communication. As used in this Paragraph, the term "relative" shall mean lineal descendant, step child, ancestor, sibling, or spouse or child of a lineal descendant, step child, ancestor, or sibling.

² Compare this language taken from LIUNA Ethics and Disciplinary Procedures, Appendix B, with the 2000 Consent Decree which provided as follows:

"A 'barred person' is (1) any member or associate of any La Cosa Nostra crime family, or (2) any person prohibited from participating in union affairs."

6. Any person who violates the injunctive provisions of this Order, shall, in addition to any other sanctions or penalties, be subject to removal, suspension and/or expulsion from office or the union by the Court. In addition, the Court may forfeit the benefits of such violator (with the exception of vested employee retirement benefits subject to Title I of the Employee Retirement Income Security Act, 29 U.S.C. § 1001, et seq.) which such violator holds by reason of his position, membership or employment in Laborers Local 210.

MODIFICATION AND ENFORCEMENT

7. Any party may hereafter make application to the Court to modify or enforce this Order and the Court may grant such relief as may be equitable and just, having due regard for the purposes of the underlying litigation and the circumstances at the time of the application. In the context of any such application, the record of all prior proceedings in this matter and in any matter involving Laborers' Local 210, or an officer, agent, representative, employee or member who is in a position of trust in Laborers' Local 210 at the time of the application shall be admissible to the extent that is necessary to make a fair and just determination of the issue.

8. Upon a showing to the Court by the United States of America by a good and sufficient demonstration that there is systemic corruption in Laborers' Local 210, or organized crime influence in Laborers' Local 210, or upon any officer or person holding a position of trust in Laborers' Local 210, the Court may order such relief as is necessary and proper, including but not limited to reappointing the Court Appointed Liaison Officer, with such powers and authority as the Court determines is necessary, granting the United States of America the authority to issue subpoenas and take depositions and other relief regarding the continuation, scope or modification of this Order.

LIMITATIONS

9. This Order shall not: (a) prevent the United States of America or any of its agencies from investigating Laborers' Local 210 or any officer, employee, representative, member or person holding a position of trust in Laborers' Local 210; or (b) prevent the United States of America from instituting a civil or criminal action against any person or entity in the future. However, the United States of America recognizes and agrees that the 2000 Consent Decree was 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, except for any claims arising under Title 26 of the United States Code (the 'Internal Revenue Code') or ¶ 8 of this Order, and such claims are discontinued with prejudice.

10. Nothing in this Order shall be construed as affecting the validity or operation of any decrees or orders previously entered in this action.

OTHER AUTHORITIES

11. Nothing in this Order shall abrogate the responsibilities under existing law of Laborers' Local 210 or the officers, agents, representatives, employees or persons holding positions of trust in Laborers' Local 210.

SEVERABILITY

12. If any provision of this Order is hereafter determined to be invalid for any reason, the balance of this Order shall remain in full force and effect.

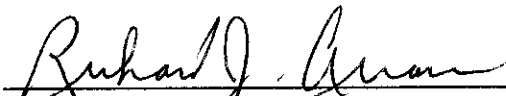
13. Pursuant to the All Writs Act, 28 U.S.C. § 1651, all parties and non-parties to this action shall be and are hereby

permanently restrained and enjoined from litigating any and all issues relating to the operation of the 2000 Consent Decree or any other Order entered in this case in any jurisdiction except this Court.

TERMINATION

14. This action is hereby dismissed without costs to any party.

IT IS SO ORDERED on this 27 day of January, 2006.



HONORABLE RICHARD J. ARCARA
Chief Judge
United States District Court