UNITED STATES DEPARTMENT OF LABOR BEFORE THE DEPUTY ASSISTANT SECRETARY

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IN THE MATTER OP	•	
JOSEPH P. SINKIEWICZ	•	
COMPLAINANT	•	
NATIONAL ASSOCIANON OF GOVERNMENT	•	
EMPLOYEES, NW SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO	•	
AND	•	CASE NO
NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES , JW SERVICE EMPLOYEES	•	
INTERNATIONAL UNION, AFL-CIO LOCAL 1-25	•	
RESPONDENTS	•	
••••••	• •	

DECISION AND ORDER

This proceeding arose under the standards of conduct ptovisions of the Civil Service Reform Act of 1978, 5 U.S.C. 7120 (CSRA), and the implementing regulations, 29 CFR Parts 457-459, u a result of a complaint alleging violations of 29 CFR §§4S8.2(aX2), 458.37, and 458.2(aX5). On August 23, 1996 the respondent filed a Motion to Dismiss asserting that CSRA jurisdiction does not exist in this matter. Lack of jurisdiction is based on Assistant Secretary ruling A/S AW No. 96-2 which concluded that when both the Labor-Management Reporting and Disclosure Act of 1959, u amended (LMRDA), and the CSRA are applicable to a labor organization, the LMRDA jurisdiction prevails. Respondent's motion contains an affidavit from National Association of Government Employees Chief Counsel Joseph G. Donnellan stating that the national union represents private sector employees (bringing it within LMRDA jurisdiction). The motion also provides that "no active participation in the alleged wrongdoing is attributed to the Local."

In a proceeding on this matter before Administrative Law Judge (ALJ) Joel P. Gardiner on August 27, 1996, representatives for both the complainant and the respondent stipulated that

there is DO CSRA jurisdiction in this matter. On September 13, 1996, ALJ Gardiner issued I Recommended Decision and Order pursuant to 29 CFR §458.70 in which be recommended that the complaint be dismissed due to lack of jurisdiction.

Since DO exceptions have been filed, pursuant to 29 CFR \$458.91, the <u>Recommended Decision</u> and Order is adopted and incorporated hereto without discussion

ORDER

IT IS HEREBY ORDERED, THAT, this case be, and it hereby is, dismissed.

Dated:

Washington, D.C.

JOHN KOTCH

Acting Deputy Assistant

Secretary