

EMPLOYER STATUS DETERMINATION

Independent Railway Supervisors Association

This is the determination of the Railroad Retirement Board concerning the status of the Independent Railway Supervisors Association (IRSA) as an employer under the Railroad Retirement Act (45 U.S.C. §231 et seq.) (RRA) and the Railroad Unemployment Insurance Act (45 U.S.C. §351 et seq.) (RUIA).

Information about the IRSA was provided by Ms. R. Stephanie Good an attorney who represents the IRSA. The IRSA is national in scope and is recognized by the National Mediation Board. In a telephone conversation on October 5, 1994, Ms. Good also stated that the IRSA has the right to participate in the selection of labor members of the National Railroad Adjustment Board. The purpose of the IRSA is to represent its members consistent with the provisions of various laws affecting collective bargaining in the railroad and airline industries. Members are drawn from all persons who are employed by common carriers engaged in interstate commerce as a subordinate official or employee subject to the common carrier's continuing authority to direct and control the manner and method of the rendition of his or her service to the carrier.

The IRSA was originally the American Supervisors Association (ARSA), which was an affiliate of the Transportation Communications Union (TCU). The IRSA has now broken away from the TCU and formed an independent union. The ARSA was an employer under the Acts. See Legal Opinion L-54-87. When the ARSA was merged with the Brotherhood of Railway and Airline Clerks (BRAC) the employer status of the ARSA was terminated effective January 2, 1982. See Legal Opinion L-81-47 and Board Notice 91-100.

Section 1(a)(1) of the RRA defines the term "employer" to include:

(v) any railway labor organization, national in scope, which has been or may be organized in accordance with the provisions of the Railway Labor Act, as amended, and its State and National legislative committees, general committees, insurance departments, and local lodges and divisions, established pursuant to the constitution or bylaws of such organization.

Section 1(a) of the RUIA contains essentially the same definition.

Section 202.15 of the Board's regulations (20 CFR §202.15) establishes the criteria used in determining whether an organization is a "railway labor" organization which is "national in scope" within the terms of sections 1(a)(1)(v) and 1(a) of the Acts. Section 202.15(a) states that an organization will be presumed to be a labor organization national in scope and formed in accordance with the Railway Labor Act if that organization has a right to participate in the selection of the labor members of the

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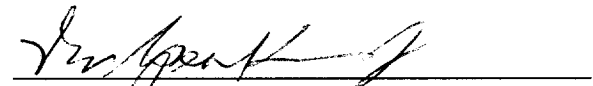
National Railroad Adjustment Board. For purposes of a determination under section 202.15(a), a right of participation may be established if:

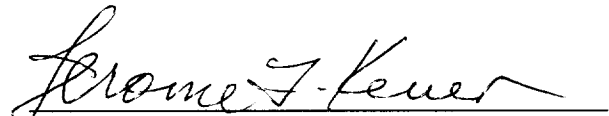
- (i) the organization has in fact participated in such selection;
- (ii) the organization has been found pursuant to section 3 "First" (f) of the Railway Labor Act (45 U.S.C. §153 "First"(f)) to be eligible to participate in such selection; or
- (iii) the organization is recognized by all other eligible organizations as having the right to participate in such selection.

Section 202.15(b) provides that a labor organization which is found to be national in scope will be determined to be a "railway" labor organization based on factors including the extent to which it is and has been recognized as the representative of crafts or classes of employees in the railroad industry, and the extent to which its purposes and business are and have been to promote the interests of railroad industry employees.

Based upon the information provided, it is determined that the IRSA is a labor organization which is national in scope because of its right to participate in the selection of the labor members of the National Railroad Adjustment Board. The Board further finds that the purpose of IRSA is to promote the interest of railroad employees. Consequently, pursuant to the standards set forth in the Board's regulation cited above the Independent Railway Supervisors Association is an employer under the RRA and the RUIA effective August 14, 1992, its date of organization.


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