



February 4, 2010



Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the United States Department of Labor (Department) on October 26, 2009, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA or the Act), 29 U.S.C. §§ 481-484, occurred in connection with the election of union officers conducted by Local 50 of the International Brotherhood of Electrical Workers (Local 50 or the Union) on June 25, 2009 (all dates hereafter are in 2009, unless otherwise indicated).

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded regarding each allegation that no violation of the LMRDA occurred which may have affected the outcome of the election. This conclusion is explained below.

You alleged that the Union violated Section 401(c) of the LMRDA, 29 U.S.C. § 481(c), by improperly restricting observers from performing their duties at the counting of ballots. Specifically, you alleged that observers were not allowed to watch the tallying of ballots from a vantage point close enough to verify the count and they were not notified of the election results at the conclusion of the count. Section 401(c) requires unions to provide adequate safeguards for a fair election, "including the right of any candidate to have an observer . . . at the counting of ballots." The Department's interpretative regulations at 29 C.F.R. § 452.107(a) state in pertinent part that "[t]his right encompasses every phase and level of the counting and tallying process . . . . Observers do not have the right to count the ballots."

The investigation showed that observers were present at the counting and tallying of ballots and were permitted to walk around and see all aspects of the process. Although they were unable to see the ballots and tally sheets closely, they were able to hear the tellers read aloud the candidates' names as voted on each ballot. After the counting was

completed and verified by the Election Committee, the Election Committee provided the results to the Executive Board Chairman, consistent with Local 50's Bylaws, Article III, Section 4, Part M. The results were announced by posting the names of the winners in each race on Local 50's website later that same evening. Accordingly, no violation occurred.

You alleged that the Union violated the Act by failing to publish the actual tally for each race conducted during the election. Section 401(e), 29 U.S.C. § 481(e), provides in pertinent part that "the votes cast by members of each local labor organization shall be counted, and the results published, separately." Here, as stated above, the investigation disclosed that the election results were published on the Union's website on the same evening that the tally was concluded. The investigation further disclosed that the Election Committee announced the specific ballot tally results, i.e. the numbers of votes each candidate received and the total number of votes cast at each of the Union's unit meetings held during July and August. There was no violation.

You alleged that disparate candidate treatment occurred because candidates' bios were unfairly edited and were mailed later than the ballots and incumbent's campaign literature. In this regard, you asserted that the incumbent received an advantage with those members who voted before receiving the bios. Section 401(e) of the LMRDA requires local unions to conduct their elections in accordance with their constitution and bylaws. The Bylaws of Local 50, at Article III, Section 8, provide:

In each Local Union election year, there shall be published in the May issue of the union publication a list of all candidates for Local Union office, together with a factual record of their activities within the Local Union committee assignments performed, offices held, and experience gained for and on behalf of the Local Union. The Elections Committee shall supervise the preparations of such publication, and may promulgate reasonable rules and regulations in connection therewith.

The investigation established that the information deleted from candidates' bios concerned their experience that was not directly related Local 50 (e.g., job titles, conference attendance *not* on behalf of Local 50); thus, the bios were edited consistently with the Union's Bylaws. No violation occurred.

Further, the investigation showed that a campaign brochure in support of incumbent President Wells was mailed on May 28; the ballot packages were mailed on June 3; and the Union's newsletter containing the candidates' biographical information was mailed on June 4. The investigation established that the delay in mailing the newsletter resulted from a mistake by Reliance Mailing, the company that printed and mailed the

newsletters and ballots on behalf of the Union. Reliance corrected the error as soon as it was discovered. The voters were without the candidates' bios for only one day of the 22-day voting period. Moreover, because the newsletter contained bios for all of the candidates who chose to submit such information, all of the candidates were affected equally. Thus, to the extent that the Union violated the Act by mailing the newsletter one day after the ballot packages were mailed, there was no effect on the outcome of the election.

You alleged that union funds were used to promote the candidacy of incumbents in violation of Section 401(g), 29 U.S.C. § 481(g), of the LMRDA. In particular, you contended that, because Wells' campaign literature contained the same postage identification number as the ballot packages, union funds must have paid for sending his campaign literature. The Department's regulations at 29 C.F.R. § 452.69 contemplate that local unions may distribute candidates' campaign literature by "contract[ing] the job to a professional mailer and charg[ing] the expense incurred to the candidates for whom the service is being rendered." The investigation revealed that the Wells brochures were mailed by the Union's designated mailer, Reliance Mailing. Further, the investigation showed, contrary to your contention, that Wells' supporters paid by personal check for the mailing expenses through the Union. No violation occurred.

Finally, you alleged that Election Committee Chairman ██████ nominated Wells for president and therefore treated Wells favorably throughout the election process. The investigation established that ██████ was not the Election Committee Chairman at the time of nominations and that he was only one of several members who nominated Wells. Wells was nominated for president at most, if not all, of the unit meetings held in April. The investigation did not uncover any evidence of preferential treatment accorded to Wells by ██████ or any member of the Election Committee. There was no violation.

For the reasons set forth above, the Department has concluded that there was no violation of the LMRDA affecting the election outcome, and I have closed the file in this matter.

Sincerely,

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Chief, Division of Enforcement

cc: Edwin Hill, International President  
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