



April 13, 2023



Dear [REDACTED]:

This Statement of Reasons is in response to your complaint, received by the United States Department of Labor (Department) on November 20, 2022. The complaint alleged that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) occurred in connection with the June 23, 2022 election of officers conducted by the International Brotherhood of Electrical Workers (IBEW) Local 876.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded, with respect to each of your allegations, that there were no violations of the LMRDA that may have affected the outcome of the election.

You alleged that a candidate for business manager unlawfully campaigned at worksites during the workday. Section 401(g) of the LMRDA prohibits the use of union and employer funds or resources to promote the candidacy of any person in an election. 29 U.S.C. § 481(g). The Department's investigation revealed that the candidate campaigned at various worksites while workers were off the clock. However, the Department's investigation also found that the candidate used a company truck to enter one of the worksites. The Department's investigation further found that five of the members present at that worksite voted in the election. While the use of the company truck for purposes of campaigning constitutes a violation of section 401(g) of the LMRDA, this violation could not have affected the outcome of the election because the candidate only campaigned for himself, and he won his office by a margin of 333 votes.

You next alleged that Local 876 failed to count all the voted ballots that were returned to the local's P.O. box. Section 401(e) of the LMRDA requires that every member in good standing be entitled to one vote. 29 U.S.C. § 481(e). The Department's investigation of this allegation revealed that the ballot instructions specifically stated that the ballot must be received no later than June 22, 2022. On June 23, 2022, the day of the tally, the election judge and three election tellers went to the post office to collect the

voted ballots; a postal clerk gave them the contents of the P.O. box. A few days after the ballot tally, the election judge returned to the post office to retrieve any late ballots and close the P.O. box. Upon review of the election records, the Department found 85 ballots that arrived too late to be counted at the tally; the earliest postmark date of these late ballots was June 21, 2022, two days before the tally. The investigation established that the union counted all timely received ballots in the election. There was no violation of the LMRDA.

Lastly, you alleged that Local 876 allowed apprentices and managers to serve as election tellers in violation of the IBEW Constitution. Section 401(e) of the LMRDA also requires unions to conduct their elections in accordance with their constitution and bylaws. 29 U.S.C. § 481(e). Article XVI, Section 11 of the IBEW Constitution states:

The election judge and tellers must have been members in continuous good standing in the L.U. at least two (2) years immediately prior to nominations, provided the L.U. has been in existence for this length of time.

The Department's investigation revealed that three election tellers were apprentices. Nothing in the union's governing documents prohibits apprentices from serving as election tellers if they meet the two-year continuous good standing requirement. As such, apprentices serving as election tellers for the June 23, 2022 election does not constitute a violation of section 401(e). The Department's investigation did reveal, however, that two election tellers did not meet the two-year continuous good standing requirement because they became members of Local 876 less than two years prior to the election. To the extent this constitutes a violation of section 401(e) of the LMRDA, the Department's investigation did not reveal that it had any effect on the outcome of the election.

For the reasons set forth above, the Department has concluded that there were no violations of the LMRDA that may have affected the outcome of the election. Accordingly, the office has closed the file on this matter.

Sincerely,

A large black rectangular redaction box covering the signature of Tracy L. Shanker.

Tracy L. Shanker
Chief, Division of Enforcement

cc: Lonnie R. Stephenson, President
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