



May 8, 2013



Dear [REDACTED]:

This Statement of Reasons is in response to the complaint that you filed with the U.S. Department of Labor on January 22, 2013, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) occurred in connection with the election of officers for Local 1303 of the International Longshoremen's Association (ILA), completed on September 22, 2012.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded, with respect to each of your specific allegations that no violation of the LMRDA occurred that affected the outcome of the election.

You alleged that [REDACTED] the Local's office secretary, was allowed to take and make a photocopy or photocopies of a ballot. Among the protections in the LMRDA is section 401(c)'s requirement that a union provide "adequate safeguards to insure a fair election." Adequate safeguards, as contemplated by the LMRDA, specifically refer to the mechanical, procedural aspects of running an election. Violations of the adequate safeguards provision are determined on a case-by-case basis. In addition, in order for a violation to be actionable there must be evidence that the violation may have affected the outcome of the election. 29 U.S.C. § 482(c)(2).

In this case, the investigation confirmed that [REDACTED] made a single photocopy of a ballot to aid her in making a tally sheet. The investigation also found that Local 1303 ordered 350 printed ballots from the printer. A photocopy of the ballot was not similar in size, color, or texture to the printed ballots. The investigation included an examination of all ballots for size, color, and texture, and found no photocopied ballots among the voted ballots or in the election records. There was no violation of the LMRDA.

You also alleged that [REDACTED] removed the voter eligibility list at times from the voter check-in table on election day.

The investigation did not confirm this allegation. Rather, the investigation found that [REDACTED] initially went to her desk several times on election day when members needed to pay dues in order to be eligible to vote. District Vice President Campbell, however, told [REDACTED] to bring all the materials she needed to the check-in table to facilitate the dues payment process. There was no violation of the LMRDA.

You also alleged that Ex-Superintendent [REDACTED] was allowed to interact with voters inside the union hall and that this violated the no campaigning rule and intimidated voters. The investigation did not confirm this allegation. As stated above, section 401(c) of the LMRDA requires that the union provide "adequate safeguards to insure a fair election."

The investigation found that [REDACTED], a retired member, was talking to people in the union hall on election day but that he did not campaign or intimidate members in the area where the voting occurred. There was no violation of the LMRDA.

You also alleged that member [REDACTED] walked into the voting booth when member [REDACTED] was voting. The LMRDA requires that covered elections be conducted by secret ballot. 29 U.S.C. § 481(a). The requirement of secrecy extends to the conditions under which votes are cast and to the handling of the ballots.

The investigation found that [REDACTED] voted 15 minutes before the polls closed and that [REDACTED] might have looked over his shoulder when [REDACTED] was voting and might have seen how [REDACTED] voted. [REDACTED] denies the allegation. In any event, the investigation found that the Local provided the space, personnel, materials, and conditions necessary to ensure ballot secrecy. Any action by [REDACTED] to observe [REDACTED] vote was not due to the union's dereliction of its duties. Moreover, the fact that there was only one such incident did not affect the outcome of the election as the smallest margin of victory was 20 votes. There was no violation affecting the outcome of the election.

You also alleged that the number of voted ballots did not coincide with the number of members who signed in as voting. The LMRDA requires that in any secret ballot election, the votes be counted and published. *See* 29 C.F.R. § 452.108.

An examination of the election records found that there were 232 signatures on the voter eligibility list and 231 voted ballots and one sample ballot/campaign flyer in the ballot box. There was no violation of the LMRDA.

You also alleged that the Local did not conduct the election in accordance with Article 5 of the Local's bylaws. More specifically, you allege that the Local, rather than the District vice presidents, should have conducted the election. Section 401(e) of LMRDA requires unions to hold covered elections in accordance with their validly adopted constitution and bylaws. 29 C.F.R. § 452.2. The Local's bylaws require locally selected commissioners to conduct the election and that one District or International officer be requested to be present at and observe the election and rule on all protests.

The investigation found that in this election, the Local president asked that District Vice-Presidents conduct the election. Even if, this arrangement violated the Bylaws, the investigation found that it had no effect on the outcome of the election. There was no allegation of election improprieties attributable to the District Vice-Presidents' conduct of the election. Moreover, as explained herein, there were no violations of the LMRDA or the union's constitution and bylaws that may have affected the outcome of the election.

You alleged that members were not required to show identification in order to vote and in your appeal to the ILA District added that [REDACTED] told a member to come back later to vote. There was no violation of the LMRDA. Neither the Act nor the applicable constitution and bylaws require voters to present identification.

Further, the investigation found that members were known by sight. Candidates had observers present at the polls, and none of the observers questioned any voter's identity. The investigation established that only eligible members participated in the election. The investigation also found no evidence that [REDACTED] dissuaded any one from voting. There was no violation of the LMRDA.

In addition to the allegations discussed above, you also raised allegations which, even if true, would not violate requirements of Title IV of the Act. Because these allegations were outside the scope of Title IV, they were not subject to the Department's investigation. These allegations involve your allegation that [REDACTED] should not have been working the election because she thought she would be fired if you won, that the district officers at the election have strong ties with the president, and that the ballots should have been numbered.

For the reasons set forth above, the Department has concluded that no violation of the LMRDA occurred, and we have closed the file in this matter.

Sincerely,

Patricia Fox, Chief
Division of Enforcement

cc: Donald Evans, President
International Longshoremen's Association, Local 1303
2223 29th Ave
Gulfport, MS 39501-4533

Mr. Harold Daggett, President
ILA
5000 West Side Avenue
Gulfport, MS 39501

Christopher B. Wilkinson
Associate Solicitor for Civil Rights and Labor-Management