



December 23, 2014

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to your July 22, 2014 complaint filed with the U. S. Department of Labor alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA), occurred in connection with the election of local officers of the Plant Protection Association National (PPAN), Local 102 conducted on June 20, 2014.

The Department conducted an investigation of your allegation. As a result of the investigation, the Department has concluded that no violation occurred.

You alleged that Local 102 failed to adhere to its bylaws and constitution by allowing [REDACTED] to vote and run for office in the election. Section 401(e) of the LMRDA requires unions to conduct elections "in accordance with the validly adopted constitution and bylaws of the labor organizations insofar as they are not inconsistent with the provisions of the Act." See 29 C.F.R. § 452.2. Article VI, Section 1 of the Local 102 bylaws states that candidates for local office must be members in good standing for one continuous year immediately prior to nomination. You assert that this provision applied to the June 20, 2014 election and that it should have prevented the candidacy of [REDACTED], [REDACTED], because he had not submitted his past union dues by the time of the election.

The investigation determined that [REDACTED] had been terminated by Allied Barton in August 2013, and had subsequently challenged this termination. While [REDACTED] grievance was being arbitrated, he attempted to continue paying dues on four occasions between September 2013 and January 2014. PPAN refused to accept his payments, claiming that he was no longer an active member. On May 6, 2014, an arbitrator ruled that [REDACTED] should be reinstated and "made whole."

Under 29 C.F.R. § 452.41(a), “an unemployed member is considered to be working at the trade if he is actively seeking such employment.” Furthermore, “[i]f a member is willing and able to pay his union dues to maintain his good standing and his right to run for office, it would be unreasonable for the union to refuse to accept such dues merely because the person is temporarily unemployed.” 29 C.F.R. § 452.41(b). This rule is also applied to terminated employees who are contesting their termination. Because [REDACTED] was actively contesting his termination, he should have been treated as working during the duration of his arbitration and, therefore, in continuous good standing. [REDACTED] attempted to continue paying dues during this time and the union should not have refused to accept these dues. Based on these facts, [REDACTED] remained in good standing and, pursuant to Local 102’s bylaws, was eligible to vote and run for office during the entire time that he was challenging his termination.

Additionally, Article IX, Section 2 of the bylaws states that a terminated employee who is reinstated with back pay has ten days from the day he receives his back pay award to pay all accrued and unpaid dues. [REDACTED] was reinstated with back pay, and therefore would not be considered late on any accrued dues until ten days after he had received his back pay award. At the time of the election, [REDACTED] had not received his back pay award, and therefore remained eligible to vote and run in the election.

The Department has concluded that [REDACTED] was a member in good standing at the time of the election and thus eligible to vote and run in the election of June 20, 2014. Therefore, there was no violation of the LMRDA.

Accordingly, the office has closed the file on this matter.

Sincerely,

Patricia Fox
Division of Enforcement

cc: [REDACTED]
Plant Protection Association National, Local 102 President
[REDACTED]

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