



June 11, 2014

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to the complaints you filed with the U.S. Department of Labor on June 14, 2013, July 11, 2013, and July 30, 2013, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the election of union officers conducted by the Union Independiente de Empleados Telefonicos de Puerto Rico (UIET), Office and Professional Employees International Union (OPEIU), on April 28, 2013.

The Department of Labor conducted an investigation of your allegations. As a result of the investigation, the Department has concluded that you failed to timely exhaust the internal remedies available under the constitution and bylaws of the UIET as required by 402(a)(1) of the LMRDA and, thus, your complaint is dismissed. Following is an explanation of this conclusion.

Section 402 of the LMRDA, 29 U.S.C. § 482, requires a union member to have exhausted or invoked "remedies available under the constitution and bylaws" of the labor organization in order to file a valid complaint with the Department of Labor regarding an election of union officers. In the absence of any such specific election appeal procedure, the complaining member should follow the general procedures used for other internal protests and appeals as outlined in the union's constitution.

The investigation disclosed that the UIET constitution and bylaws do not contain specific procedures for protesting an election of union officers. The UIET requires any member who wishes to protest an election of union officers to follow the general procedures and timelines available in Articles VI and VIII of the bylaws. Article VI of the UIET bylaws provides that a member wishing to file a complaint with the UIET must do so with the Discipline Committee within 30 calendar days from the date on which the event took place or when the member submitting the complaint had knowledge of such event. Article VIII, section 2 of the UIET bylaws provides that an appeal from an adverse decision of the Discipline Committee must be submitted in writing to the Board Directors in less than 10 working days from receipt of such decision to be timely.

The Department of Labor investigation disclosed that you were or should have been aware that the UIET required any member who wished to protest an election of union officers to follow these procedures and timelines. Specifically, the investigation disclosed that you protested the 2010 election to UIET President Edward Sanchez. In response to that protest, President Sanchez informed you that you were required to comply with certain procedures set forth in the UIET's constitution and bylaws, including the appeal procedures prescribed in Article VIII, section 2 of the bylaws.

The investigation showed that you complied with the protest procedures prescribed in Article VI of the bylaws. The Department's investigation disclosed that by letter dated March 1, 2013, you protested the incumbents' use of UIET funded publications to advance the incumbents' candidacies to the Discipline Committee. By letter dated April 19, 2013, the Discipline Committee denied your March 1 protest. In a letter dated March 27, 2013, you protested the UIET's disqualification of certain members from candidacy to the Discipline Committee. The Discipline Committee denied your March 27 protest by letter dated May 6, 2013.

The investigation disclosed, however, that you did not comply with the appeal procedures and timelines available in Article VIII, section 2 of the bylaws. By letter dated May 28, 2013, you appealed the Discipline Committee's April 19 and May 6 decisions to the Board of Directors. During the investigation, President Sanchez stated that your May 28 appeal was filed with the Board of Directors more than ten days after your receipt of the Discipline Committee's April 19 and May 6 adverse decisions and, therefore, was untimely. During the investigation, you did not dispute that the May 28 appeal to the Board of Directors was filed more than 10 working days after your receipt of the Discipline Committee's April 19 and May 6 adverse decisions. On these facts, your appeal to the Board of Directors did not comply with the timelines prescribed in Article VIII, section 2 of the UIET bylaws and, thus, was untimely.

Because your internal appeal was not timely, you failed to properly exhaust internal union remedies as required by section 402 of the LMRDA. Your complaint to the Department is therefore not properly before the Secretary of Labor and is dismissed.

Although the Department dismissed your complaint for failing to satisfy the exhaustion requirements of Section 402, we note that the investigation substantiated your allegation that Article XI, Section 2 of the UIET Constitution contained candidate eligibility requirements that were unlawful under the candidacy eligibility provision of Section 401(e) of the LMRDA. That provision provides, "every member in good standing shall be eligible to be a candidate . . . subject to . . . reasonable qualifications. . . ." The Department's regulations at Section 452.37(a), 29 C.F.R. § 452.37(a), state that it would ordinarily be reasonable for a local union to

require a candidate to have been a member of the organization for a reasonable period of time, not exceeding two years. Article XI, Section 2 of the UIET Constitution states, *“It is an indispensable requirement to have been a member of the UIET for **five years**”* in order to run for a union officer position, and, further, *“any member who has applied for a position of trust, management, or non-union position in the Telephone Company within the past **five years** of filing for candidacy is not eligible for elective positions of the BOD.”* (Emphasis added). The five-year time frame in each of these candidate eligibility requirements exceeds two years and, thus, such time frame renders these requirements unlawful under Section 401(e) of the LMRDA and the Department’s regulations. Therefore, the union should take the necessary action to remove these unlawful candidate eligibility requirements from the union’s governing documents, prior to the next regularly scheduled election of UIET officers, in order to avoid any future violations of Section 401(e) as a result of the implementation of such unlawful requirements.

For the reasons set forth above, this office has dismissed your complaints and closed our file on this matter.

Sincerely,

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Chief, Division of Enforcement

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