



October 6, 2015

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed on May 18, 2015, alleging that a violation of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U.S.C. §§ 481-484, occurred in connection with the election of officers conducted by the International Longshoremen's Association (ILA), Local 1422 (Local 1422 or union), AFL-CIO, on January 30, 2015.

The Department of Labor (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 was no violation that may have affected the outcome of the election.

You alleged that the local did not hold the nomination meeting at the time provided in Article IX, section 1, of Local 1422's Constitution and Bylaws, but at a special, called meeting held on December 19, 2014. Article IX, Section 1, of Local 1422's Constitution and Bylaws provides that nominations of officers shall take place at and during the regular meeting 30 or more days prior to the expiration date of each officer's term. Article XIII, Sections 1 and 2, also provides that the monthly meeting shall be held on the fourth Friday night of each month. Therefore, based on the bylaws, the nominations meeting should have been held on November 28 or December 26, 2014. Section 401(e) of the LMRDA provides that an election subject to the LMRDA shall be conducted in accordance with the constitution and bylaws of such organization insofar as they are not inconsistent with the provisions of the LMRDA. 29 U.S.C. § 481(e).

The Department of Labor investigation revealed that the union mailed a nominations notice dated December 1, 2014, to the membership informing members that a special meeting for nominations was to be held on Friday, December 19, 2014. The investigation also revealed that the local's past practice has been to hold a special meeting for nominations. In fact, special meetings for nominations were held for the last three elections on Monday, December 19, 2005; Monday, December 15, 2008; and

Monday, December 19, 2011. President Riley stated that he would not have selected November 28 (the day after the Thanksgiving holiday) or December 26, 2014 (the day after the Christmas holiday), as required by the bylaws, because he was trying to ensure greater participation among the members. You did not allege, and the investigation did not reveal any evidence, that any member was unable to be nominated as a candidate or to nominate a candidate for office as a result of the nomination meeting being held on December 19. Local 1422's failure to hold its nominations meeting in accordance with the constitution and bylaws was a violation of section 401(e) of the LMRDA. However, there was no effect on the outcome of the election.

You alleged that on election day during the noon hiring hall meeting, Election Committee member ██████ used a microphone to urge members to come out and vote. You considered ██████ plea to the members present to be a form of campaigning. Section 401(g) of the LMRDA provides that no money received by any labor organization shall be contributed or applied to promote the candidacy of any person in an election subject to the provisions of Title IV of the LMRDA. 29 U.S.C. § 481(e). The Department's investigation revealed that ██████ used the microphone to state, "before you leave please vote because you know how the election was the last time, so if you want to make a change or not, please vote." The investigation did not reveal any evidence that ██████ promoted any individual candidate. ██████ did not mention any candidate nor did he tell anyone how to vote. There was no campaigning involved in the announcement. There was no violation of the Act.

You alleged that President Kenneth Riley, Vice President James Pinckney, Jr. and Assistant Delegate Marion Green Jr., local officers, were not in good standing with Local 1422, and should not have been permitted to be nominated or placed on the ballot for the January 30, 2015 election. Article VIII, Section 1(a) of Local 1422's Constitution and By-Laws requires that in order to be eligible for nomination or election to any office a member must have been in continuous good standing for a period of one year prior to his nomination. You allege that these individuals had not paid the requisite amount of dues to maintain good standing. Article XVI, Section 1(a), of the ILA Constitution provides that each local shall fix the dues and initiation fees of its members. The investigation revealed that the established rate of dues for working members of Local 1422, set forth in Article XII, Section 1(a) of Local 1422's bylaws, is 5% of each member's gross earnings. However there was some confusion in the local as to whether the dues for working members also applied to officers such as Riley, Pinckney and Green. Heretofore, the salaried officers of Local 1422 had paid a lesser dues amount and had been allowed to run for union office.

The investigation disclosed that ILA Secretary-Treasurer Robert E. Gleason, in letters dated November 5, 2001 and January 25, 2006, informed locals and their officers that Article XVI of the ILA Constitution has been consistently interpreted by the ILA to

require that whatever rate of dues is established by the local for its members applies to all members of the local, including salaried officers. The ILA General Counsel's office confirmed that the stated policy on officers' dues remained current in 2014. The Department's investigation revealed that the ILA Constitution does not authorize a local to establish one rate of local dues to be paid by members on check-off and another rate of local dues to be paid by local salaried officials. Also, the Department's investigation found that there is no provision in the ILA's Constitution authorizing a local to establish a lower rate of dues for local salaried officials.

The Department's investigation revealed that on July 17, 2014, members filed charges with the ILA against President Riley and the Local 1422 Executive Board alleging that the Local 1422 Executive board failed to follow the ILA's policy that requires all local union members, including salaried officers, to pay the same amount of dues as rank-and-file members in order to be members in good standing.

The ILA appointed a committee to address the complaint, and a hearing was held on September 23, 2014. The Committee concluded, based on testimony presented at the hearing and its review of Local 1422's financial records that Local 1422's past practice of allowing officers to pay a lower rate of dues was in conflict with the local's dues policy. Accordingly, the Committee found that President Kenneth Riley, Vice President James Pinckney, Jr., and Assistant Delegate Marion Green Jr. were not in good standing because they had not fulfilled their local dues obligations by paying 5% of their gross officer's salaries. The Committee recommended that Riley, Pinckney, and Green could become members in good standing and eligible to run in the January 30, 2015 election by paying their local union dues in the amount of 5% of gross local union officer salary for a period of one year preceding the date of the election. Also, the Committee recommended that each of these officers continue to pay 5% dues on his gross local union officer salary from the date of the nominations until each leaves local union office.

By letter dated December 9, 2014, the International advised the charging parties that the ILA Executive Council voted to adopt the Committee's Findings and Recommendations. On December 18, 2014, the day prior to nominations, Riley, Pinckney, and Green paid the required dues, 5% of salary, for the period January 30, 2014 to January 30, 2015. Inasmuch as Riley, Pinckney and Green complied with the International's directive to pay 5% dues on their gross local union officer salaries to become members in good standing and eligible to run for office in the January 30, 2015 election, there was no violation of Section 401(e) of the LMRDA.

For the reasons set forth above, the Department has concluded that there was no violation of Title IV of the LMRDA that may have affected the outcome of the election, and I have closed the file regarding this matter.

Sincerely,

Sharon Hanley
Chief, Division of Enforcement

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