



May 4, 2010

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed with the Department of Labor on February 18, 2010, alleging violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA), 29 U.S.C. §§ 481 - 484, occurred in connection with the election of officers of Local 75 (Local 75 or local), United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada (International), conducted on November 30, 2009 and December 1, 2009.

The Department of Labor (Department) conducted an investigation of your allegations. As a result of the investigation, the Department has concluded that there was no violation that may have affected the outcome of the election.

You alleged that the local failed to follow the International Constitution's requirement that nominations notice be mailed at least ten days before the nominations meeting, contain a combined notice of nominations and elections, among other information. Section 401(e) of the LMRDA, 29 U.S.C. § 481(e), mandates that union elections shall be conducted in accordance with the constitution and bylaws of such organization insofar as they are not inconsistent with the provisions of Title IV. Section 122 of the International Constitution provides, in relevant part, that at least ten days prior to the nominations meeting, a notice shall be mailed to each member's last known address setting forth the date, time, and place of the nominations and election; the offices to be filled; and the date, time and place of a runoff election in the event of a tie. The LMRDA does not designate a specific time within which nominations notice must be provided, so long as it is in accordance with the provisions of the union's constitution. See 29 C.F.R. 452.56

Nominations notice was provided to members in the union's publication, the *Plumb Line*, mailed to every member. A review of the various editions of the *Plumb Line* during the election period showed that the September Bulletin Supplement, mailed on or about September 7, 2009, while timely mailed, did not contain all the required

information identified in section 122 of the International Constitution, whereas the September-October edition of the *Plumb Line*, mailed on or about October 19, 2009, contained all of the requisite information identified under that provision of the International Constitution, but it was mailed within ten days of the October 27, 2009 nominations meeting. The local's failure to adhere to the precise terms of its constitution was a technical violation that does not appear to have affected the outcome of the election, as is required by section 402 of the Act. 29 U.S.C. § 482(c). The local provided two nominations notices to its members, both of which were in advance of the nominations meeting. In fact, you agreed that you could not identify any member who wanted to nominate or be nominated but did not do so because of inadequate nominations notice. There was no violation that may have affected the outcome of the election.

You alleged that the election notice was not conspicuously placed on the front page of the *Plumb Line* so that not all members were informed of the election. Election notices that are provided in a union's publication must either be placed on the front page or the front page should have a conspicuous reference to the inside page where the election notice appears, so that the inclusion of the election notice in a particular issue is readily apparent to each member. 29 C.F.R. § 452.100. The investigation disclosed that a combined nominations and election notice was printed in the September-October 2009 issue of the *Plumb Line*. On the front page, in the upper right-hand side, a large, dark arrow pointed downward to a window displaying the words "**Important Member Info** See page 5." You contend that the content of this window should have mentioned the election, and its failure to do so violated the LMRDA.

Even if the local's failure to insert the word "election" in the notice on the front of the newsletter can be construed to be inconsistent with the Secretary's Interpretive Regulation 29 C.F.R. § 452.100, there was little if any effect on the outcome of the election. Members were apprised of the upcoming election by the nominations notice placed in the September Bulletin Supplement that was mailed approximately two months in advance of the election. Moreover, an election notice was mailed on or around October 19, 2009, well over a month prior to the election. Also, an election reminder was mailed to members in the November-December issue of the *Plumb Line* on November 25, 2009. Members were further made aware of the election upon receipt of campaign literature mailed by you and your opponent. You agreed that you were unable to identify any member who did not vote because he or she was unaware of the election. There was no violation that may have affected the outcome of the election.

For the reasons set forth above, it is concluded that there was no violation of the LMRDA affecting the outcome of the election, and I have closed the file in this matter.

Sincerely,

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Acting Chief, Division of Enforcement

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