



January 10, 2014



Dear [REDACTED]

This Statement of Reasons is in response to your April 8, 2013 complaint filed with the U.S. Department of Labor alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) occurred in connection with the triennial election of officers for Local 2198 of the International Association of Machinists and Aerospace Workers conducted on December 6, 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 violations occurred which may have affected the outcome of the election.

You alleged that the union did not conduct the election in a fair and impartial manner when ballots were issued to members who were outside the voting room waiting to go in and vote. During the investigation, the Election Committee confirmed that there were some members who were standing in line with ballots in hand waiting to go into the voting room, but when it was really busy, the Committee stopped passing out ballots until the area cleared.

Section 401(c) of the LMRDA requires that adequate safeguards to insure a fair election shall be provided. The requirement of adequate safeguards has been interpreted in Departmental regulations as imposing "a general rule of fairness" on union elections. 29 C.F.R. § 452.110. Section 401(c) also requires that local union officers be elected by secret ballot.

The investigation established that by passing out ballots to members waiting to go into the voting room, adequate safeguards were not maintained, but there is no evidence that voter secrecy was compromised. Section 402(c) of the LMRDA provides that an election will only be overturned where a violation may have affected the outcome of the election. The investigation found no evidence that the failure to maintain adequate safeguards may have affected the outcome of the election.

You alleged that the union failed to properly count ballots, claiming that the election tellers were rushed. There is no evidence to support that claim. Indeed, two election tellers specifically stated that they did not feel rushed. Moreover, no one requested a ballot recount or complained about count irregularities at the ballot tally. The Department of Labor conducted a recount of the ballots. The Department's recount showed a slight difference in vote totals in two races (Secretary-Treasurer and Conductor/Sentinel), but there was no change in outcome.¹ There was no violation.

You alleged that there was disparate treatment when candidate [REDACTED], [REDACTED] in the race for Secretary-Treasurer, campaigned within 10 to 15 feet of the polling area, in violation of the International's Official Circular No. 809 that states that "the balloting area and at least a 50 foot area surrounding it must be designated a campaign free zone."

The investigation revealed no disparate treatment in this regard. Several candidates campaigned in the campaign-free zone, including an individual, [REDACTED], who campaigned for you when she stood in the hallway outside the polling place and said, [REDACTED]. In any event, the investigation revealed that at most those engaged in this campaigning campaigned to a maximum of 15 members. This number is insufficient to have affected the outcome of any race. The smallest margin of victory for any race was 17.

You alleged that the union failed to follow the International's constitution and bylaws when balloting did not take place where the regular local lodge meetings are held, but was held in the union office. You further allege that you could not campaign there. Article B, Section 4, of the International's constitution states, "Balloting shall take place in the Local Lodge room where regular Local Lodge meetings are held, excepting in those Local Lodges where circumstances require some other arrangement, the Local Lodge may, through its bylaws, provide other methods, subject to the approval of the International President."

The polls were supposed to be in the second floor conference room, but the elevator was broken, and since the Christmas party was being held in the meeting hall, the polls were set up in the union's office. There was no evidence that failure to follow the constitution and bylaws in this regard had any effect on the outcome of the election. Members were not confused about the voting location such that they did not or could not vote. Any restriction on campaigning occasioned by the changed voting location

¹ For the Secretary-Treasurer race, the Department had a tally difference of two votes in favor of [REDACTED] and one less "No Vote/Void" ballot. For the Conduct/Sentinel position, the Department had a tally difference of two more votes for [REDACTED] one more for [REDACTED] and two more No Vote/Void Ballots. The margins in both of these races greatly exceeded these slight tally differences.

was the same for all candidates. Further, there was no restriction on campaigning outside the building in the parking lot to campaign and in fact you admitted to doing so. There was no actionable violation of the LMRDA.

You alleged that some candidates who were elected to office were not eligible to run as candidates because they were delinquent in the payment of dues. Section 401(e) of the LMRDA requires in pertinent part that every member in good standing shall be eligible to be a candidate and to hold office subject to reasonable qualifications uniformly imposed. Article VIII, Section 3 of the bylaws of Local 2198 provide, in relevant part, "In order for a member to be eligible to hold any office of this Local Lodge, he must have been working at the trade for a period of one (1) year at the time of his nomination and must be free from delinquency of any nature to the Local, District or Grand Lodge."

Local 2198 interprets that provision to require that the candidate be free of delinquency of any nature for a one year period prior to nominations. The Department's regulations provide that a union's interpretation of its constitution will be upheld unless it is clearly unreasonable. *See* 29 C.F.R. § 452.3. The union's interpretation is reasonable and thus governs. The nomination meeting was held on November 1, 2012, and therefore the relevant time period to review delinquency status was between November 1, 2011 and November 1, 2012. The Department reviewed the dues record of all the candidates and found no candidates with dues delinquencies within the qualifying period.

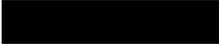
██████████, a winning candidate for Trustee, did not have a partial month dues deduction from her November 5, 2012 paycheck. ██████████, an unsuccessful candidate for Trustee, did not have partial month dues deduction in January 2011. Inasmuch as the delinquencies did not occur during the time period of November 1, 2011 to November 1, 2012, both ██████████ were properly on the ballot. There was no violation.

For the reasons set forth above, it is concluded that no violation of the LMRDA occurred that affected the outcome of the election. Accordingly, the office has closed the file on this matter.

Sincerely,

Patricia Fox, Chief
Division of Enforcement

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