



January 22, 2010



Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed with the United States Department of Labor on September 28, 2009, alleging that 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 2660 (Local 2660 or local), United Steelworkers of America (International), conducted on April 23, 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 provide the membership with notice of a list of candidates, in violation of the Local Union Elections Manual (Elections Manual). You claim that the local's failure to do so resulted in a loss of name recognition for you, because you were unknown to the membership at the time of the election. Section 401(e) of the LMRDA requires, among other things, that elections be held in accordance with a union's constitution and bylaws. 29 U.S.C. § 481(e). The Elections Manual was duly adopted by the International to explain and interpret the International Constitution. As such, the Elections Manual is a duly enacted rule binding on all subordinate locals. *See* 29 C.F.R. § 452.53. The Elections Manual, p. 35, paragraph 6, provides, in relevant part, that as soon as possible following the nominations meeting, a list of eligible candidates shall be posted at suitable spots or suitably advertised among the membership.

The investigation disclosed that the local posted a list of candidates at a mine site in Keewatin and in a window of the union office. Neither the posting at a mine nor at the union hall was a "suitable spot" to make a posting, because the majority of the members at the Keewatin mine were on layoff status and had little reason to visit the mine or the union hall. Consequently, the posting of the list of candidates at those sites was in violation of paragraph 6, p. 35, of the Elections Manual.

Violations of the LMRDA's election provisions are not grounds for setting aside an election unless they "may have affected the outcome of the election." 29 U.S.C. § 482; *see also* 29 C.F.R. § 452.136(b). Despite the local's lack of an appropriate posted notice, the membership was aware that you were running for local president because on April 17, 2009, you made a campaign mailing to all members, a mailing that included a list of all candidates and the position each candidate sought. Your mailing of a list of candidates to all members suitably advertised your candidacy. Moreover, that mailing was received prior to the April 23, 2009 election. There was no violation that may have affected the outcome of the election.

You alleged that an "acclaimed" candidate who was also a local officer served on the election committee, in violation of the Elections Manual. Specifically, you claimed that [REDACTED], a contract coordinator, was an officer of the local and was an acclaimed candidate because he had nominated someone to office. The Elections Manual provides in relevant part, that "[n]o officer, candidate, or acclaimed candidate for Local Union office . . . shall serve as a member of the Election Committee." Section 3(n) of the LMRDA defines an "officer" as one who is so identified in the union constitution, or is authorized to or performs the function of a specific office or executive functions, or is a member of its executive board. 29 U.S.C. § 402(n); *see also* 29 C.F.R. §§ 452.17-452.21. An acclaimed candidate is one who runs for office without opposition.

The investigation disclosed that at the time of the election [REDACTED] held the position of "contract coordinator." That position is not an "officer" position within the local because the job does not fulfill any of the requirements that define "officer" within the meaning of Section 3(n) of the LMRDA. A contract coordinator is not a constitutional officer of the local under any document binding on the local and is not authorized to perform any executive board functions. Further, [REDACTED] did not sit on the local's executive board, the local's governing body. The investigation established that [REDACTED] did not run for office in this election. Consequently, [REDACTED]'s appointment to the Election Committee did not violate the Elections Manual. There was no violation.

You alleged that the incumbent local president had access to the membership list but you were denied similar access. You did not allege that the incumbent local president used the local's membership list for campaigning purposes. Section 401(c) of the LMRDA, 29 USC 481(c), provides each bona fide candidate a right to inspect a list containing the names and addresses of members, but that right does not encompass the right to copy the membership list. 29 CFR § 452.71. This provision is incorporated into the Elections Manual. The investigation disclosed that you were permitted to inspect the membership list and to make a mailing through the local and that you in fact made such a mailing, as did the incumbent local president. The investigation did not

establish any evidence that the incumbent local president copied or used the local's membership list for campaigning purposes. There was no violation.

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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Chief, Division of Enforcement

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