



September 29, 2010

Dear |||:

This Statement of Reasons is in response to your complaint received by the Department of Labor on June 23, 2010, alleging that violations 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 of Local 1871, International Association of Machinists and Aerospace Workers, conducted on December 10, 2009.

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

You alleged that the election notice contained two election dates. Section 401(e) of the LMRDA provides that not less than fifteen days prior to the election, a notice of election must be mailed to each member at his or her last known home address. The notice must include the date, time, place of the election and the offices to be filled. 29 C.F.R. § 452.99.

The investigation disclosed that the local mailed a notice of election on October 7, 2009 that met these requirements except with respect to the date of the election. That election notice contained both the correct election date, December 10, 2009, and another date, December 14, 2006. The local mailed a post card to every member at his or her last known home address on or around October 19, 2009, stating that the correct election date was December 10, 2009. The October 19th election notice was well in advance of the election and complied with the 15-day requirement. The investigation further disclosed that no member presented himself at the union hall on December 14th to vote. To the extent that the first notice violated the Act, any violation was corrected by the second mailing.

You alleged that the incumbent president was permitted to enter the voting area while other candidates were denied such access. Section 401(c) of the LMRDA requires unions to provide adequate safeguards to ensure a fair election. Such safeguards include the prohibition of any campaigning within a polling place. 29 C.F.R. § 452.111.

The investigation disclosed that no candidate or member entered the voting area except to vote and there was no campaigning within the polling area by any candidate or member. The investigation further disclosed that the incumbent president entered the union hall on the main floor and immediately went to his office on the second floor. All candidates, including the incumbent president, campaigned outside the union building. There was no violation.

You alleged that the local improperly combined the position of president and chief steward on the ballot, and in so doing permitted retirees to vote for chief steward, a bargaining unit position for which retirees are prohibited from voting. The International's Official Circular No. 815 provides, in relevant part, that retirees "may vote in local . . . elections" but "may not vote for any position that has a direct impact on the collective bargaining agreement, such as stewards or committee persons." Circular 815 A(2) and A(3) respectively.

The combination of Chief Steward and other officer duties is contained in Article IV, section 1 of the Local 1871 Bylaws, which provides that "[t]he highest ranking officer from the M.T.C. [Metal Trade Council] bargaining unit shall be Chief Steward." Under this article, the chief steward is not a separate position. Rather, it is a responsibility assigned to an officer. There are no requirements in the LMRDA or the local's constitution and bylaws that prohibit the local lodge from adopting this bylaw.

Further, assuming that Circular 815 is a binding rule, it was not violated. The circular prohibits retirees from voting for certain "positions." Under Article IV, section 1 of the Local 1871 Bylaws, the chief steward is not a separate position, but rather duties assigned to a constitutional officer. As the local's rules permit retirees to vote for constitutional officer positions, it was not improper to permit them to vote for a constitutional officer who is also assigned the duties of chief steward. There was no violation.

You alleged that the local failed to provide an accounting of the printed, used, and unused ballots to the membership. The LMRDA does not require unions to provide such an accounting. However, in its investigation the Department reconciled the number of ballots printed with the number of ballots used and those left over after the election. There was no violation.

For the reasons set forth above, it is concluded either that no violation of the Act occurred or that any violation that occurred did not affect the election outcome. Therefore, I have closed the file on this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

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