



May 9, 2011

[REDACTED]

[REDACTED]

[REDACTED]

Dear [REDACTED] [REDACTED] and [REDACTED]:

This Statement of Reasons is in response to your complaint filed with the Department of Labor on October 25, 2010. Your complaint alleges that numerous 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 June 22, 2010 election and June 29, 2010 runoff election of officers for United Auto Workers (UAW) Local 7777.

The Department of Labor 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 there was no violation affecting the outcome of the election.

First, you allege that the local failed to provide a proper notice of the nominations in violation of Section 401(e) of the LMRDA, 29 U.S.C. § 481(e). Department of Labor regulations at 29 CFR § 452.56 provide that "the labor organization must give timely notice reasonably calculated to inform all members of the offices to be filled in the election as well as the time, *place* and form for submitting nominations." (emphasis added). You specifically allege that the combined nomination and election notice was written in a manner that caused confusion regarding the location for in-person nominations. The notice stated as follows:

Candidates must submit their nomination acceptance, in person, at the local office, or certified mail, to: UAW Local 7777. Address CERTIFIED mail to:

Election Committee, UAW Local 7777, 2140 Holbrook, Hamtramck, MI 48212, with postmark no later than midnight, June 10, 2010.”

The notice identified the location for in-person nominations as the Local 7777 office. This designation was insufficient. Although Local 7777 was occupying office space at one address, it was in the process of purchasing space at a different address, the former offices of UAW Local 235 where the in-person nominations took place. As the notice was unclear as to the place for in-person nominations, it did not meet the requirements of the LMRDA. The union violated section 401(e) of the LMRDA in this regard.

However, the Department of Labor investigation revealed that the violation of section 401(e) did not affect the outcome of the election. Under section 402(c)(2) of the LMRDA, 29 U.S.C. § 481(c), the Secretary may only file suit where a preponderance of the evidence reveals that a violation may have affected the outcome of an election. The Department of Labor investigation revealed that only one member ██████████ believed he was prevented from nomination because of the confusion about the location for in-person nominations. ██████████ stated that he saw the notice and went to Local 7777's address around 2 p.m. to nominate himself for MotorCity Bargaining Member-at-Large. Union officials at that address told him that he had to go to Local 235 to nominate himself. ██████████ told the Department of Labor that he did not have time to do so because he had to start work at 3 p.m.

The investigation revealed that the deficiency in the nomination notice did not, in and of itself, prevent ██████████ from being nominated. ██████████ could have nominated himself despite the confusing notice. ██████████ could have mailed in a nomination to the address that was correctly provided in the notice instead of choosing to nominate himself in-person. Also, even assuming that ██████████ arrived at Local 7777 at 2 p.m., based on the investigation, ██████████ still had sufficient time to drive to the correct location and to then drive to his work at MotorCity Casino, find parking, have his belongings inspected, change into a uniform, and clock in by 3 p.m. After being provided the correct information, ██████████ chose not to go to the correct address for in-person nomination prior to beginning his work shift. It is also noted that ██████████ did not complain to the election officials or seek their assistance contemporaneously with his nomination attempt and that no other would-be candidate was similarly affected. Based on these facts, we find that the violation of Section 401(e) of the LMRDA did not affect the outcome of the election.

You also allege that the improper notice caused disparate treatment in violation of Section 401(c) of the LMRDA, 29 U.S.C. § 481(c), which provides that adequate safeguards to ensure a fair election must be provided. Specifically, you allege that the improper notice caused a candidate's name to be placed on the ballot after the certified mail nomination acceptance

deadline passed. Based on the OLMS investigation, this candidate sent her certified mail nomination to the Local 235 address. The certified mail receipt was produced by the candidate and it reflected that her nomination was timely postmarked on June 10, 2010. Based on the timely certified mail receipt, the election committee added the candidate's name to the ballot. There was no violation of the LMRDA.

Second, you allege that members of the local were denied a reasonable opportunity to vote in violation of Section 401(e) of the LMRDA, 29 U.S.C. § 481(e), due to the distance they had to drive to Local 235. You assert that the election should have been held at Local 7777 instead, that members were inconvenienced by having to drive to Local 235, and that having to drive to Local 235 had an adverse effect on the voting process. The investigation revealed that the travel time from the three casinos where members worked to Local 7777 was approximately 7 minutes; the travel time from the casinos to Local 235 was approximately 8 minutes. There is only a one minute difference in travel time between the casinos and Local 235 versus Local 7777. Moreover, the membership voted to hold the election at Local 235. The investigation did not substantiate your allegation. There was no violation of the LMRDA.

Third, you allege that Section 401(e) of the LMRDA, 29 U.S.C. § 481(e), was violated because certain members not in good standing due to dues delinquencies were allowed to run for office and to vote. You also allege that eligible members were denied the right to vote. Section 401(e) of the LMRDA, 29 U.S.C. § 481(e), provides that every member in good standing shall be eligible to be a candidate and shall have the right to vote. Here, the union's bylaws condition eligibility to run for office in union elections on timely payment of dues for one year immediately prior to nominations. The bylaws also condition eligibility to vote on timely payment of dues each month. Specifically, any member whose monthly dues are in arrears for more than one calendar month is automatically suspended from good standing. Article 16, Sections 2 and 8 of the UAW Constitution provide that dues must be paid to the Financial Secretary during the current month. However, Article 16, Section 26 states that failure of an employer to deduct the dues of members on dues check-off does not affect a member's good standing *if* the Financial Secretary does not provide notice to the member to pay dues within 30 days. Based on the Department of Labor review of dues check-off lists for the one year prior to nominations, several candidates and voters had a lapse in dues at some point during this time frame. However, the investigation revealed that the Financial Secretary provided written notice on one occasion only and did not provide written notice to any other members to pay dues within 30 days due to delinquency. Apparently, the Financial Secretary did issue one letter on June 18, 2009 to a candidate regarding dues payments; however, that candidate's dues were paid and her good standing was not affected. Accordingly, in accordance with Article 16, Section 26 of the UAW Constitution, members' good standing was not affected; consequently, there was no violation of the LMRDA.

With respect to the three members you identified as eligible members who were denied the right to vote, the investigation revealed that two of the three members' votes were in fact counted. However, the remaining member voted a challenged ballot that was not counted. Even if this one member's challenged ballot should have been counted, a difference of one vote would not have affected the outcome of the election where the smallest margin of victory was 4 in the June 22, 2010 election and 8 in the June 29, 2010 runoff.

Fourth, you allege that candidates were denied the right to have an observer/challenger during the runoff election, in violation of Section 401(c) of the LMRDA, 29 U.S.C. § 481(c), when a challenger for your Committee 4 Change caucus was removed by an election committee official. The investigation revealed that a challenger was relieved of her duties but was immediately replaced by another member. Therefore, there was no violation of the LMRDA.

Fifth, you allege that the local violated Section 401(c) of the LMRDA, 29 U.S.C. § 481(c), by failing to provide adequate safeguards to ensure a fair election during both the June 22, 2010 election and the June 29, 2010 runoff election because Election Committee members were allowed to exit the polls with bags and envelopes whose contents were unknown. Specifically, you allege that an Election Committee official left the polls during the middle of the tally with a duffle bag refusing to allow for inspection and an Election Committee Co-Chair left with an envelope. The investigation revealed that witnesses observed the Election Committee official put personal belongings in his duffle bag and that the envelope the Election Committee Co-Chair left with contained voided ballots. In any event, the Department of Labor review of the June 22, 2010 election records disclosed no indicators of ballot fraud and only minor discrepancies not affecting the outcome of the election with regard to the tally of votes. There was no violation affecting the outcome of the election.

Sixth, you allege that the local violated of Section 401(c) of the LMRDA, 29 U.S.C. § 481(c) when the election committee denied your recount request in connection with the June 22, 2010 election. The investigation revealed that the local received written requests on June 28, 2010 from two of you seeking a recount. However, your requests were not honored because they were made the day before the June 29, 2010 runoff election. One of you was already a candidate in the June 29, 2010 runoff election. There is no rule requiring a recount request to be granted. Moreover, OLMS conducted a ballot recount of each of your races, which disclosed a one vote difference in the President's race. The President's race had a vote margin of 94 votes. Accordingly, even if there was a violation of the LMRDA, it had no effect on the outcome of the election.

Seventh, you allege that Local 7777 engaged in disparate candidate treatment in violation of Section 401(c) of the LMRDA, 29 U.S.C. § 481(c), because the local did not excuse your caucus from work on the day of the election in order to allow you to campaign. The investigation revealed that MotorCity Casino denied all employee requests submitted for the June 22, 2010 election due to the excessive number of requests received, which would have impacted business operations. You identify one challenger who purportedly was excused on election day. However, the investigation revealed that the local submitted a request to MotorCity Casino for this particular member to be excused for union business on the day after the election. There was no violation of the LMRDA.

The Department of Labor investigation revealed that the ballots were numbered in sequential order from 1-1800, and the voter sign-in sheets for each casino also were sequentially numbered. Additionally, the sign-in sheets contained the time each person signed the sheet. These circumstances would allow the union to match voter with vote cast and thereby violate the secret ballot provisions of the LMRDA. However, at least one of you knew that the voter sign-in sheets were numbered and that they were handed out in numerical order. Therefore, at least one of you could have known that voter secrecy may have been compromised, but did not file a protest concerning the union's procedure to either the union or the Department of Labor. Consequently, the violation is outside the scope of this complaint and could not form the basis for litigation by the Department of Labor.

For the reasons set forth above, the Department of Labor concludes that any violations that took place regarding the UAW Local 7777 election and runoff election of officers would not have affected the outcome of the election. Accordingly, I have closed the file on these matters.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

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