



November 2, 2011

[REDACTED]

[REDACTED]

Dear [REDACTED] and [REDACTED]

This Statement of Reasons is in response to your complaints filed with the Department of Labor on June 3, 2011. Your complaints alleged 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 April 9, 2011 election of officers for Boilermakers Lodge 627.

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 alleged that the lodge failed to follow the constitution and bylaws in violation of Section 401(e) of the LMRDA and failed to provide adequate safeguards in violation of Section 401(c). You specifically alleged that the election committee was improperly selected and composed of friends of the incumbents who may have felt obligated to "help" the incumbents. You also alleged that the election committee should have been selected or elected at the nomination meeting, not after the nomination meeting with the involvement of the president and business manager.

Boilermakers Constitution, Article 28.7.3 states that "[t]he President shall appoint an Election Committee not to exceed 7 impartial members . . ." The Lodge 627 bylaws are silent regarding the procedure for selecting members of the election committee.

The Department of Labor investigation determined that the lodge president appointed all but one of the members of the election committee the week after the nominations meeting. The election committee chair appointed one member to the election

committee, and the president approved that appointment. There is no requirement that election committee members be selected or elected during the nominations meeting. Moreover, the evidence did not reveal that any election committee member was not impartial or acted in a biased or unfair manner. There was no violation of the LMRDA.

Second, you alleged that Lodge 627 may have denied members their right to vote in violation of Section 401(e) of the LMRDA because approximately 37 voted ballots may not have been counted due to improper eligibility determinations. Section 401(e) of the Act provides that every member in good standing shall have the right to vote for or otherwise support the candidate or candidates of his choice. Boilermakers International Constitution, Article 28.6 provides that “[A] member to be entitled to nominate a candidate or to vote in any Local Lodge election, must have been in good standing in such Local Lodge for at least sixty (60) calendar days immediately prior to such date of nominations and/elections . . .” In addition, the notice of election stated that “Members must be in Good Standing as shown on the LOCAL LODGE 627 DUES REPORT OF MARCH 31, 2011. (Monthly Dues paid thru February 2011, which was 60 days prior to the election, constituted good standing for April Election).”

The Department’s investigation did not reveal 37 uncounted ballots. The Department’s examination of the election records determined that there were 25 ballots that were not counted because the members were found ineligible to vote based on their failure to pay dues through February 2011. The relevant dues payment list contained the following designations: “C”-current, dues paid through at least February 28, 2011; “A”-arrears, dues paid through at least January 31, 2011; “S”-suspended, dues paid through a date earlier than January 31, 2011. The 25 members whose ballots were not counted were listed as either being in arrears or suspended. The investigation confirmed that the designations on the dues list were accurate. The Department reviewed the underlying dues payment history of all 25 voters determined to be ineligible. Their dues payment history reflected that they had in fact not paid dues through February 2011, at the time of the election. The investigation revealed that two additional ballots were not counted because those voters had left the union and were no longer members. There was no violation of the LMRDA.

Third, you alleged that Lodge 627 failed to properly count ballots in violation of Section 401(c) of the LMRDA based on an unexplained discrepancy between the total votes cast for president (215) and those cast for business manager (222). However, when interviewed, [REDACTED] acknowledged that the 7-vote discrepancy may exist because not all voters voted for a candidate in the president race. The Department recounted the ballots for all six officer positions. The only discrepancy between the OLMS count and the Local 627 recount tally was a 1-vote difference in the vice president race, but that difference does not affect the outcome of that race. There was no violation of the LMRDA affecting the outcome of the election.

For the reasons set forth above, the Department of Labor concludes that any violations that took place regarding the Boilermakers Lodge 627 election would not have affected the outcome of the election. Accordingly, I have closed the file on these matters.

Sincerely,

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Chief, Division of Enforcement

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