



February 12, 2013

[REDACTED]

[REDACTED]

[REDACTED]

Dear Messrs. [REDACTED]:

This Statement of Reasons is in response to the complaints you filed with the Department of Labor on September 13, 2012, September 18, 2012 and September 24, 2012, respectively, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the election of union officers conducted by Local 276, United Automobile, Aerospace and Agricultural Workers of America, on May 3-4, 2011.

The Department of Labor conducted an investigation of your allegations. As a result of the investigation, the Department has concluded, with respect to the specific allegations, that there was no violation of the LMRDA that may have affected the outcome of the election.

Complainants [REDACTED] and [REDACTED] alleged that members were issued ballots and voted but did not sign the voter registrar book. Section 401(c) of the LMRDA provides a general mandate requiring that a union provide adequate safeguards to insure a fair election during the conduct of its election of union officers. 29 C.F.R. § 452.110. The investigation disclosed that upon a voter's arrival at the polling site to vote, the voter was required to sign the voter registrar book before an election committee member gave the voter a ballot. The investigation disclosed that 7 eligible voters voted in the election but did not sign the voter registrar book. The investigation disclosed, however, that

prior to the voters receiving a ballot to vote, the election committee members verified their identities, located their names on the voter eligibility list, and then highlighted their names on the voter registrar book. Adequate safeguards were provided and the LMRDA was not violated.

Complainants [REDACTED] and [REDACTED] alleged that the election committee was not able to account for all of the ballots printed for District 3. Section 401(c) of the LMRDA provides a general mandate requiring that a union provide adequate safeguards to insure a fair election. The Department's review of the local's election records reflected that 370 ballots were printed for District 3. The ballots were numbered M001 to M370, and the first 213 ballots numbered M001 to M213 were cast by voters during the election. The Department's review of the voter eligibility list reflected the names of 213 members as having voted. The election records also reflected that 157 unused ballots numbered M214 to M370 remained on hand at the completion of the election. Thus, the local was able to account for all 370 ballots printed for District 3 (213 + 157 = 370). The LMRDA was not violated.

Complainant [REDACTED] alleged that an election committee member printed additional ballots and distributed them to members during the election. Section 401(c) of the LMRDA provides a general mandate requiring that a union provide adequate safeguards to insure a fair election. The investigation did not corroborate this allegation. Instead, the investigation revealed that sample ballots with an "X" marked through the entire ballot and the words "Sample Ballot" printed across the top of the ballots were located at various work departments. An election committee member took one of these ballots, made photocopies of it, and then distributed the copies to new members to familiarize them with the names of the candidates running in the election. During the investigation, the election committee member stated that she did not endorse any candidate while she distributed the sample ballots. Neither you nor any of your witnesses saw the election committee member engage in any campaign activity while distributing these ballots. The LMRDA was not violated.

Complainant [REDACTED] alleged that ballots may have been cast by ineligible voters because his observer was not able to physically count or touch the voted ballots. Section 401(c) of the LMRDA requires a union to provide adequate safeguards to insure a fair, including the right of any candidate to have an observer at the polls and at the counting of the ballots. 29 C.F.R. § 452.107. The Department recognizes that observers are entitled to engage in certain activity while serving in that capacity, including counting the voters at the polls and noting their names, observing the voter identification and verification processes at the polls, and, as appropriate, challenging the manner in which individual ballots are called and tallied. However, the LMRDA does not confer on observers a right to physically count or handle any ballots. Such action may disrupt or

interfere in the conduct of the election or compromise or give the appearance of compromising the secrecy of the ballot. The LMRDA was not violated.

Complainant [REDACTED] alleged that a vote purportedly cast by union member [REDACTED] was actually cast by someone other than [REDACTED]. The investigation disclosed that member [REDACTED] cast a challenged ballot in the election and that an observer erroneously believed that someone had fraudulently voted a ballot for UAW International Representative (IR) [REDACTED] (different spelling of first name). A review of the election records determined that IR [REDACTED] did not vote. The LMRDA was not violated.

The investigation also disclosed that, in addition to member [REDACTED], the local required 7 other eligible voters to vote by challenged ballot. The local is comprised of 8 districts. The local's constitution and bylaws limit voter and candidacy eligibility for district positions to members of a represented district. The investigation disclosed that there was only one polling site for the election. On the day of the election, a voter registration table for each of the 8 districts was located at the polling site. The ballots containing the offices for a particular district and the voter eligibility list for that district were located at the respective voter registration table. A voter was required to sign-in at the voter registration table for the district to which the voter was assigned. The investigation revealed that 8 eligible voters, including member [REDACTED] signed in at the wrong voter registration table and, thus, their names were not located on the voter eligibility list located at that table. As a result, they were required to vote challenged ballots that eventually were voided in their entirety. However, the ballots listed both the district positions and the general offices that every member was entitled to vote for.

Although a union may by its constitution and bylaws limit voter and candidacy eligibility to members of a represented district, such limitation may not be applied to the general offices. *See* 29 C.F.R. 452.43. To this end, section 401(e) of the LMRDA mandates that every eligible member has the right to vote for or otherwise support the candidate or candidates of his choice. The 8 members were eligible voters and, thus, entitled to vote for the general offices. The local violated section 401(e) of the LMRDA when it failed to include in the vote tally votes cast by these 8 eligible voters for those offices. However, an election is only declared void where the violation may have affected outcome. 29 U.S.C. 482(c)(2). The vote margins for the general offices ranged from 33 votes to 450 votes. Thus, under these circumstances, the violation could not have affected the outcome of the election.

Complainant [REDACTED] alleged that campaign materials were found in and around the ballot box and in the voting booths. Section 401(c) of the LMRDA provides a general

mandate requiring that a union provide adequate safeguards to insure a fair election regarding the conduct of its election of officers. Thus, there must not be any campaigning within the polling place and a union may forbid any campaigning within a specified distance of a polling place. 29 C.F.R. § 452.111. The investigation disclosed that the additional voting regulations listed in the local's newsletter containing the election notice stated, "no candidates . . . [or] campaign materials . . . will be allowed within a 100 foot radius of the UAW Local 276 Union Hall building...." The investigation disclosed that 10-15 copies of a list that contained the typewritten names of certain candidates were found in a ballot box after the polls closed.

There was no prohibition on members bringing campaign material into the polling area when they came to vote. The investigation disclosed that no candidates or their supporters violated the local's campaign rule. The LMRDA was not violated.

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

Sincerely,

Patricia Fox  
Chief, Division of Enforcement

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