



January 24, 2013

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to the complaint that you filed with the U.S. Department of Labor on August 22, 2012, alleging that a violation of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) occurred in connection with the election of officers of United Steelworkers AFL-CIO Local 1138 held on April 12, 2012.

The Department conducted an investigation of your allegation. As a result of the investigation, the Department has concluded that no violation of the LMRDA occurred that may have affected the outcome of the election.

You alleged that Local 1138 improperly denied you the right to vote in the 2012 election of officers when it failed to provide you with an absentee ballot despite your timely request for one.

Section 401(e) of the LMRDA secures the right to vote for every member in good standing. Further, the USW Local Union Elections Manual provides that if a member requests an absentee ballot from the election chairperson at least seven days in advance of the election, the union shall immediately mail the member an absentee ballot by registered or certified mail.

The investigation found that you contacted Election Chairperson [REDACTED] to request an absentee ballot in the late afternoon of Thursday, April 5, 2012, seven days prior to the election. Upon meeting him in person to submit a written request for an absentee ballot, you informed [REDACTED] that you would be traveling to St. Louis, Missouri and would need the ballot delivered there via overnight delivery to ensure that you received it with enough time to vote. The investigation found that you offered to pay the costs of overnight delivery, but [REDACTED] did not take any money from you for this purpose. By the time that [REDACTED] received the written absentee ballot request, the union office had closed for the day. Further, the only union official with access to the absentee

ballots, Office Administrator [REDACTED] was not working on Thursday, April 5 or Friday, April 6 (a union holiday). [REDACTED] sent the absentee ballot on Monday, April 9. However, because she did not send it via overnight mail as you had requested, you did not receive the ballot until April 12, the day of the election, at which point it was impossible to submit the completed ballot in time.

On these facts, the Department determined that the union's actions unlawfully prevented you from voting in the election in violation of the LMRDA. However, the LMRDA provides that election results will only be set aside where a violation may have affected the outcome of the election. 29 U.S.C. § 402(c). The violation described above had an effect of one vote. The smallest vote margin for any of the races was for the office of 1138** Unit Vice President, which had a margin of two votes. Accordingly, even if you had been able to submit your vote in a timely fashion, it would not have affected who won any of the officer positions.

For the reasons set forth above, it is concluded that the violation of the LMRDA in this election did not affect the outcome of the election, and I have closed the file in this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

cc: Leo W. Gerard, International President
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