



September 3, 2021

[REDACTED]

[REDACTED]

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to the complaint that you filed with the United States Department of Labor on May 18, 2021, alleging that a violation of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) occurred in connection with the decision by the Communication Workers of America (CWA) Local 2252 Election Committee to void and rerun the officer election completed on December 30, 2020.

The Department conducted an investigation of your allegation. As a result of the investigation, the Department has concluded that no violation occurred.

You alleged that the Election Committee should not have ordered a rerun of the December 30, 2020 election. Section 402(a) of the LMRDA requires that a union member exhaust internal union remedies before filing a Title IV complaint with the Department. This requirement was included in the LMRDA to give unions a chance to correct election problems and deficiencies themselves, thereby preserving a maximum amount of independence and encouraging responsible self-governance. In furtherance of this legislative objective, the Department accords a certain degree of deference to a union's decision to hold a new election in response to internal union election protests. The Department will not seek to reverse a union's remedial decision to hold a new election unless it is apparent that the decision was based on the application of a rule that violates the LMRDA; the decision was made in bad faith, such as to afford losing candidates a second opportunity to win; or the decision is otherwise contrary to the principles of union democracy embodied in the LMRDA and holding a new election was unreasonable.

The Department's investigation confirmed that the Election Committee had a reasonable basis for deciding to void and rerun the officer election. On January 18, 2021, in response to multiple challenges from local members, the Election Committee ordered a rerun of the December 30, 2020 election in which the three of you ran as candidates for President, Executive Vice-President, and Secretary-Treasurer, respectively. As relevant here, the decision concluded that members were denied the opportunity to vote; as such, this provided a reasonable basis to overturn the election. The Election Committee also addressed whether candidates misused union funds and the union logo, and whether the union treated candidates equally. In your complaint to the Department, you disputed the challenges and disagreed with the Election Committee's decision to conduct a rerun election. Specifically, your complaint requested that the Department overturn the Committee's decision.

The Department's investigation revealed conflicting views among the parties regarding the correctness of the Election Committee's determinations. The Department need not address all issues in the Election Committee's decision to rerun the election. That decision was based on multiple factors, including that "[m]embers did not have reasonable opportunity to receive, mark and return ballots and were denied their entitled right to vote." The Department's investigation found ample evidence to support this conclusion.

On December 8, 2020, the union mailed all 1,356 ballot packages to be used in the officer election from a facility in Fenton, Michigan. The packages contained individual ballots which the local membership, who live primarily in Washington, D.C. and the surrounding states, needed to complete and ship to a post office box in Portland, Oregon, by 9:00 a.m. PST on December 30, 2020, in order to be counted for the officer election. As a result of the holiday season and the COVID-19 pandemic, the Post Office was experiencing an unusually high number of delays. By December 15, 2020 – one week after the union mailed ballot packages to members – over 500 members still had not received their blank ballots. There were further post office delays regarding the return of completed ballots. During a review of Local 2252's election records, the Department identified 97 ballots that could not be counted because they were delivered after the deadline. Based on their postmarks, a majority of those were mailed at least one week before the December 30, 2020 deadline. The investigation further identified multiple written complaints in reference to union members not being given enough time to vote due to the shipping delays and 32 emails sent between December 14, 2020, and December 24, 2020, from members who had not yet received their ballots. The largest vote margin in the election was 90 votes in the president's race, out of 232 votes cast.

The Election Committee, therefore, had a reasonable basis to find merit in the claim that a substantial number of members did not have a reasonable opportunity to receive, mark, and return their ballots. The Committee's decision to rerun the election in this regard was not based on the application of a rule violating the LMRDA, was not made in bad faith, and was not contrary to the principles of union democracy embodied in the LMRDA.

For the reasons set forth above, the Department has concluded that there was no violation of the LMRDA by the CWA Local 2252 Election Committee in deciding to order a new election, and I have closed the file in this matter.

Sincerely,

A large black rectangular redaction box covering the signature of Tracy L. Shanker.

Tracy L. Shanker
Chief, Division of Enforcement

cc: Christopher Shelton, National President
Communication Workers of America (CWA)
501 3rd Street, NW
Washington, DC 20001

Cindy Thayer, President
CWA Local 2252
2915 Hunter Mill Road, Suite 13
Oakton, VA 22124-1716

, Associate Solicitor
Civil Rights and Labor-Management Division