



September 24, 2021

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the U.S. Department of Labor on January 20, 2021. The complaint alleged that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA or Act), occurred in connection with the election of officers of the International Brotherhood of Electrical Workers (IBEW) Local Union 1505, which was completed on October 13, 2020.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded that no violations occurred which may have affected the outcome of the election.

You allege that the nomination notice was not mailed to the membership and that absentee ballot information was not conveyed to members, in violation of the local bylaws. The IBEW Basic Laws and Policies state that locals are required to mail a combined notice of nominations and elections to the last known home address of all members in good standing "at least 20 days prior to the date of nominations." Similarly, Article III, Section 9(a) of the Local 1505 Bylaws states that "[n]otice shall be mailed to all members at least twenty (20) days prior to the meeting for nominations in election years with all information regarding nominations, list of offices to be filled, date, time, and place of election, and the date, time, and place of run-off election if required. Said notice shall also include all details concerning the availability of the absentee ballot." Article III, Section 4(c) provides, in part, that a member who is qualified to vote and who expects to be "unable to visit the polls on election day, may . . . make application in writing to the Election Judge for an absentee ballot."

Section 401(e) requires that elections be conducted in accordance with the union's constitution and bylaws insofar as they are not inconsistent with the provisions of the LMRDA. 29 U.S.C. § 481(e). It further provides that members must have a reasonable opportunity to nominate candidates prior to an election. The Department's regulations provide that nomination notices "may be given in any manner reasonably calculated to reach all members in good standing and in sufficient time to permit such members to

nominate the candidates of their choice.” 29 C.F.R. § 452.56. The LMRDA does not require that a union use multiple methods to provide notice of nominations, nor does the LMRDA prescribe particular forms of nomination procedures. It does, however, require the method to conform to the organization’s constitution and bylaws, and to be reasonably calculated to inform members of nominations.

The Department’s investigation found that, due to the COVID-19 pandemic, Local 1505 received permission from IBEW International to postpone its election from June 2020 until October 2020, and to hold the election via mail ballot as opposed to the usual polling site election. Information explaining the change in procedures was posted to the union’s Facebook page. Local 1505 mailed the ballot packages to all members on September 24, 2020. However, the local did not mail a nomination notice, as required by Article III, Section 9(a) of the Bylaws, ahead of the nominations period. The change in procedures due to the pandemic did not include a waiver of the requirement to mail a nominations and election notice.

Instead of mailing the nomination notice, the union posted nomination notices on bulletin boards in all plants on August 21, 2020, and stewards handed out a letter from the local President about the nominations and election process at workplaces on August 24, 2020. Nominations were open from August 24 until September 4, 2020. During the nomination period, approximately 171 members were out of the workplace due to Leave of Absence, Voluntary Layoff, COVID Quarantine, or Vacation/Sick Leave. These members would not have reason to come to the worksite and would likely not otherwise have had access to the nominations notice that was posted on the bulletin boards.

This process violated the LMRDA, as it was inconsistent with the union’s bylaws and was not reasonably calculated to reach all members in good standing due to the inability of those members on leave to access the nominations notice. Section 402(c)(2) of the LMRDA provides, however, that an election will only be overturned where a violation may have affected the outcome of the election. 29 U.S.C. § 482(c)(2). You did not identify, and the investigation did not reveal, any member who wished to nominate a particular candidate or run for office and was prevented from doing so due to the method the union used to provide notice of nominations. The Department attempted to contact the members who may not have received notice of nominations because they were on leave during the entire nominations period. Of those members the Department contacted, only two members indicated that they were not aware of nominations and would have nominated someone had they been aware. However, one of those members could not name any particular person who they would have nominated, and the other member only named individuals who had, in fact, already been nominated. Thus, the evidence did not establish probable cause to believe that the union’s failure to mail the notice of nominations affected the outcome of the election. Furthermore,

members were permitted to self-nominate for office, and members, including those who were on leave, could have requested a nomination form by contacting the election committee. This allowed members on leave to have a reasonable opportunity to participate in the nominations process. Accordingly, there was no violation of the Act that may have affected the outcome of the election.

With respect to your allegation that the union failed to notify members of information relating to absentee ballots, the investigation determined that Local 1505 did not provide information relating to absentee ballots because, as stated above, the local received permission to conduct the October 2020 election entirely by mail due to the COVID-19 pandemic. Accordingly, absentee ballots were not needed or provided. As stated in the IBEW Basic Laws and Policies, “[a]bsentee balloting is required as a supplement to voting at the polls,” but “[w]hen the bylaws provide for an all-mail ballot, there shall be no provision for voting at the polls.” To the extent that the union’s failure to include this information in a notice may have been technically inconsistent with the terms of the Local 1505 Bylaws, this would not have affected the outcome of the election. If a member did not receive their mail ballot or if their original ballot was spoiled, they were able to request and were mailed replacement ballots. On October 1, 2020, Election Judge ██████ posted a notice that ballots had been mailed and that members who did not receive a ballot should contact the election committee. Based on the union’s replacement ballot list, 22 people were sent ballots based on either a request or identified address correction. Thus, there was no violation of the Act that may have affected the outcome of the election.

Next, you allege that the ballot instructions mailed to members were not clear about the deadline to drop ballots at the post office. Specifically, you claim that members thought they had until 4:00 PM on October 13, 2020 to drop their ballots at their local post office, as opposed to needing to mail the ballot in time for it to arrive at the election committee’s return ballot P.O. Box by that time. The ballot instructions stated that ballots “must be received at the Post Office no later than 4:00 PM Tuesday, October 13, 2020.” Section 401(c) of the LMRDA requires unions to provide adequate safeguards to ensure fair elections. 29 U.S.C. § 481(c).

While the ballot instructions themselves did not specifically state which post office the ballots needed to arrive at by October 13, the requirement that the ballots needed to be received by the Election Committee as of this date was made clear through multiple notices that the union posted at the worksites. The address of the Election Committee’s PO Box was printed on the ballot return envelopes. The nominations notice that was posted on August 21, 2020, clearly stated that ballots must be received by October 13, 2020. The letter from President Legere, dated August 24, 2020, that was distributed at the worksites also indicated that all ballots needed to be received by October 13, 2020. A Local 1505 Newsletter Handout that was distributed on September

28, 2020, also stated that October 13 was “election day” and that it was on that day that officers would be selected. Another notice that was posted on October 1, 2020, stated that “ballots must be received by the election committee by October 13, 2020 to be included in the count towards the election.” Additionally, these notices provided the contact information for the election committee and invited members to reach out if they had questions. You did not claim that you were personally confused by the instructions. Although the investigation uncovered that some members indicated that they did not understand which post office needed to receive the ballots by October 13, the union made a good faith effort to clarify the election process and the totality of the circumstances made clear that ballots needed to be received by the election committee by October 13. There was no violation.

You next allege that the membership list was not properly updated, making ballots to members undeliverable. You explained that you based this allegation on the fact that this election had low voter turnout and that there was insufficient notification to members to update their addresses. In mailing out the election notice and a ballot, a union must show that it has made reasonable efforts to maintain an accurate and current mailing list. 29 C.F.R. § 452.110; 29 U.S.C. § 481(e). In keeping a mailing address list current, a union must initially take reasonable steps to obtain correct home addresses for all of its members and then must endeavor to keep the addresses that it has up to date.

The Department’s investigation disclosed that the union took reasonable steps to update its mailing list. The investigation established that, in creating the membership list that was used to mail the ballots, the Election Committee used the employer’s “show-all” list. This list included the address of every union member, including those on a leave of absence, and is updated weekly by the employer. The Election Committee further included a list of members on Voluntary Layoff, which included those members on the July dues report even if they were not on the show-all list. The union mailed 2,386 ballot packages. The union estimated that it received a total of approximately 28 undeliverable ballots packages, or 1.2%, but that ten of these ballots were successfully redelivered.

The investigation found that 18 undeliverable ballots, or less than 1% of the total ballots mailed, remained unresolved at the close of the election. This small percentage is indicative of the union’s steps to adequately update its mailing list. Only 11 of these 18 ballots belonged to members eligible to vote. Election Judge ██████ explained that they did not attempt to re-mail these ballots because they were received right before a holiday weekend, with the election immediately following, so he did not believe the Election Committee could find new addresses and resend the ballots before the deadline. Further, you did not provide evidence that members did not receive their ballots and, as stated above, if a member did not receive their mail ballot, they were

able to request and were mailed replacement ballots. The nominations notice that was posted on August 21, 2020, and the letter from President Legere dated August 24, 2020, also reminded members to confirm with the local that their mailing address was up to date. As such, the investigation did not establish that the union failed to take reasonable steps to keep its membership address list up-to-date. There was no violation.

However, during the course of investigating your allegation regarding the union membership list, the Department determined that the eligibility list used at the counting of the ballots was not correct, resulting in 16 eligible ballots not being counted. Eligibility at the ballot tally was verified using the dues payment lists for July, August, and September. Election Judge [REDACTED] stated that a person on the new hires list would have been eligible to vote because they would have paid their first dues prior to the election, but that new hires would have appeared as ineligible on the three-month dues list. While the Election Committee printed out both the three-month dues list and the new hires list, [REDACTED] acknowledged that the tellers may not have remembered to check the additional new hires list in addition to the dues list. Ten of the 16 eligible ballots were from members on the new hires list; two were from new members who had been hired in time to complete two months of work and to be submitted for dues withdrawals prior to the election; two were from members who were marked as having paid all dues during the three-month dues look back; one was from a member who was marked as having voted but did not appear to have voted; one member, who had brought her dues current, was wrongly shown as ineligible on the eligible voter list.

These 16 members were thus denied the right to vote, in violation of Section 401(e) of the LMRDA. 29 U.S.C. § 481(e). The union agreed that the 16 ballots should have been counted and the Department recounted these ballots in order to resolve this allegation. The only race that could have been affected by this violation was for delegate to the international convention, which had a margin of 15. After counting these 16 ballots, the Department determined that the same eight candidates received the most votes. Accordingly, this violation did not affect the outcome of the election.

Next, you made allegations implicating section 401(g) of the LMRDA. Section 401(g) of the LMRDA prohibits the use of union funds to promote the candidacy of any person in an election of union officers. 29 U.S.C. § 481(g); 29 C.F.R. § 452.73. Accordingly, union officials and employees may not campaign on time that is paid for by the union. Union officials and employees are free to campaign for the candidates of their choice so long as the campaigning does not involve the use of union resources. In addition, section 401(g) prohibits the use of employer funds to promote the candidacy of any person in an election of union officers.

First, you allege that Business Manager Zagami used \$4,000 in union funds to purchase solidarity masks with IBEW logos during the election cycle to promote his candidacy. The Department's investigation did not substantiate this claim. The investigation

established that the masks were purchased with the union logo on them to show solidarity during the pandemic because Raytheon employees had to continue coming to the workplace. There was no evidence of campaigning associated with the masks. Additionally, IBEW locals do not need the permission of the international to use the IBEW logo for official local union business. There was no violation.

Next, you allege that Zagami's campaign used union resources to place a link to the Zagami-Legere Re-Election Facebook page on the official Local 1505 Facebook page, which included the IBEW international logo, and that this falsely indicated international support for Zagami's candidacy. The investigation found that the Zagami-Legere Re-Election page was displayed as a related page to the official union page by an algorithm established by Facebook and not by a member. John Bruno, who created and administered both the Local 1505 page and the Zagami-Legere Re-Election page, provided a signed statement attesting that he was not aware of the related pages until you raised the issue in the [REDACTED] Facebook group on October 9, 2020. Bruno also stated that the related page was not visible when viewing Facebook on his phone. The Local 1505 Facebook page, which is authorized to use the IBEW logo, is separate from the Zagami-Legere Re-Election Facebook page, which did not use the IBEW logo.

The investigation determined that the pages were likely designated as "related" by Facebook based on location, category, and other pages "liked" by fans of the page. Other examples of "related" pages uncovered during the investigation included a page for a meat market located in the same area as many of the members, as well as the Massachusetts unemployment office. There was no indication that the IBEW endorsed any of these linked pages. Furthermore, you claim that you first saw the Zagami-Legere page appear as a related page on the Local 1505 page on September 10, 2020, the date the re-election page was created, but you did not contact the election committee or raise this to the union until October 9, 2020, four days before the election. There was no violation.

Finally, you allege that members, stewards, and officers of Local 1505 campaigned for Zagami on the [REDACTED] Facebook group during work hours or while conducting official business and that Vice President John Bruno used union social media resources to campaign for Zagami. Specifically, you claimed that [REDACTED] may have posted a campaign post on the [REDACTED] page during his shift. The investigation established that employees are allowed to use their cell phones during breaks and lunch and that the [REDACTED] group is a private Facebook group not controlled by the union and is not a union resource. Many members engaged in campaigning on [REDACTED], including you, and there was no evidence that any candidate was prevented from campaigning on [REDACTED]. With respect to [REDACTED], his shift started at 3 p.m. and five of the eight time/date stamped posts that you provided occurred prior to [REDACTED] start time. The other three posts were during his shift, but do not advocate for or against any

candidates. With respect to Bruno, he did not make any campaign posts during work hours, and at no point did he post campaign information in the same post as official union business. There was no violation.

Your additional allegations were determined to be either not within the scope of the investigation or not covered by the LMRDA.

For the reasons set forth above, the Department has concluded that there was no violation of Title IV of the LMRDA that may have affected the outcome of the election, and I have closed the file in this matter.

Sincerely,

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

Tracy L. Shanker  
Chief, Division of Enforcement

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