



December 9, 2021

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on February 8, 2021, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the October 2020 rerun of the August 2020 runoff election of union officers conducted by Local 7, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW).

As a preliminary matter, the Department notes that the UAW denied your complaint to the international president as untimely based on article 33, section 44 of the UAW International Constitution, a general provision requiring appeals to be made within thirty days of when the member becomes aware, or reasonably should have been aware, of the action or decision being appealed. As noted below, however, the Department could not conclusively establish whether the issues you raised should be governed by the more specific provisions of article 38, sections 11 and 12 of the union's constitution, under which your appeal may have been considered timely.

Therefore, the Department 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.

The Department's investigation established that Local 7 held its general officer election on August 6-7, 2020, and a runoff election for certain positions on August 27-28, 2020. Among the officer positions subject to the runoff were executive board members at large for divisions 2, 3, 5, and 6. As you described in your complaint, the ballot instructions for all four of those executive board positions incorrectly directed voters to "VOTE FOR TWO (2) ONLY." The instructions for those races should have directed voters to vote for only one candidate.

You alleged that the election committee and current executive board members, having received protests about the ballot instruction errors, decided to rerun the runoff election

for executive board positions for divisions 2, 3, and 6, but not division 5. You alleged that this decision displayed a bias against divisions 2, 3, and 6 and in favor of the winning division 5 candidate. Section 401(c) of the LMRDA requires unions to refrain from discrimination in favor of or against any candidate. 29 U.S.C. § 481(c). 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 members filed protests with the election committee regarding the August 27-28, 2020 runoff based on both the ballot instruction errors and the election committee's decision to treat as "spoiled" the ballots containing two votes for one executive board position. The Department's investigation established that the Local 7 election committee correctly determined that the ballot instruction errors may have affected the outcomes of the executive board rerun races for divisions 2 and 3, and that the margins for the division 5 and 6 races were so large that the errors could not have affected their outcomes. The election committee's recommendations to rerun the division 2 and 3 races, and the executive board's decision to adopt those recommendations, therefore were reasonable and did not reflect bias against divisions 2 and 3.

The Department's investigation also determined that the executive board voted to rerun the division 6 runoff race even though the ballot instruction error could not have affected the outcome of that race. The executive board did not vote to rerun the division 5 runoff race, whose outcome also could not have been affected by the ballot instruction error. The union's disparate treatment of the candidates for the divisions 5 and 6 executive board races was a violation of the LMRDA. However, the candidate who won the division 6 executive board runoff race won the race in the rerun election as well. Therefore, this violation could not have affected the outcome of the election.

You also alleged that the decision to rerun some of the executive board races was made without giving the membership the opportunity to vote on it. You alleged that the union failed to follow the requirements of UAW International Constitution article 38,

sections 11 and 12. Section 401(e) of the LMRDA requires that elections be conducted in accordance with the union's constitution and bylaws. 29 U.S.C. § 481(e).

Section 11 of article 38 of the UAW International Constitution establishes procedures for filing local union officer election protests, either in writing to the local recording secretary or made at the next membership meeting. It further provides that, if membership meetings have been suspended by affirmative membership action, the protest must be submitted to the local recording secretary. The local executive board must rule on the protest within thirty days.

Section 12 of article 38 provides, in part, as follows:

In the event the membership, either in acting upon a protest or in ratification of an Election Committee recommendation, should order a new election, no such election shall be held until the matter has been submitted to and an order thereon received from the International President. In such an event, the Local Union shall submit a complete report of the circumstances which influenced the membership to order a new election, as well as the official minutes of the pertinent membership meeting, to the International President. Any member of the Local Union shall have the right to submit a written statement to the International President. . . .

No deadline for the member's statement to the international president is specified.

Article 9, section 7 of Local 7's bylaws requires all decisions and recommendations of the executive board to be referred to the next regular membership meeting for membership approval. However, the UAW International Constitution, in section 7 of article 38, empowers the executive board "to represent the Local Union between meetings of the Local Union when urgent business requires prompt and decisive action," with the exception of "business that may affect the vital interests of the Local Union."

The Department's investigation confirmed that the executive board made the final decision to rerun certain executive board races on September 9, 2020, and that the matter was not presented for membership approval. However, the Department's investigation did not establish that these actions occurred in violation of the union's constitution or bylaws. The investigation established that the UAW had suspended regular membership meetings because of the COVID-19 pandemic. The investigation disclosed that you were present at, and participated in, the executive board meeting at which the rerun decisions were made. The investigation did not establish that the requirements of section 12 of article 38 of the international's constitution, which are triggered when "the membership . . . order[s] a new election," applied to the executive

board's decision to order the rerun elections at issue in this case. But even if the union's actions were taken in violation of its constitution and bylaws, the violation could not have affected the election outcome for the same reasons noted above: The decision to rerun the division 2 and 3 races was the necessary remedy for the ballot instruction errors in the runoff election, and the decision to rerun the division 6 race, though incorrect, did not affect the outcome of that race.

For the reasons set forth above, the Department of Labor concludes that there was no violation of the LMRDA that may have affected the outcome of the election. Accordingly, I have closed the file on this matter.

Sincerely,



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Chief, Division of Enforcement

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