



October 20, 2022



Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on March 14, 2022, alleging violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA). You alleged that violations occurred in connection with the regularly scheduled election of union officers conducted by International Longshoremen's Association (ILA) Local 333 on December 1, 2021.

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 no violation occurred that may have affected the outcome of the election.

You first alleged that union officials gave union jackets and a luncheon to Local 333 members two or three months before the election. During the Department's investigation, you stated that you believed that the incumbent union officers held a free luncheon and gave away jackets to get members to vote for them in the upcoming election. You stated that you could not recall any previous instances in which the union gave away jackets to members and that the only other free luncheon you recalled was held following an officer election.

Section 401(g) of the LMRDA prohibits the use of union resources to promote any candidate for union office. Accordingly, union officers and employees may not campaign on time that is paid for by the union or use union funds, facilities, equipment, or other resources to assist them in campaigning for union office. 29 C.F.R. § 452.76.

The Department's investigation established that Local 333 began holding annual holiday parties for members in 2016 but suspended that practice in 2020 in response to the Covid-19 pandemic. The investigation established that, in July 2021, the Local 333 executive board approved holding a barbecue for the membership and providing jackets to all members during the event to thank the members for keeping the ports open and operating during the pandemic. The investigation confirmed that the union

held a barbecue luncheon and gave away union jackets to members at the Dundalk Marine Terminal on September 24, 2021. The event took place over one month before the Local 333 nomination meeting on November 2, 2021, and over two months before the election on December 1, 2021. The investigation uncovered no evidence that any campaigning occurred at the event or in connection with distributing the jackets. There was no evidence that union resources were used to promote any candidate for union office, and there was no violation.

You next alleged that individuals whose names were not on the list of eligible voters on the day of the election were allowed to vote. During the Department's investigation, you stated that you had no specific knowledge of anyone voting who was not eligible to vote. However, you stated that you heard that, on the day of the election, individuals who were not on the eligibility list were trying to vote at the polling area set up in a parking lot at the Dundalk Marine Terminal. You stated that Local 333 President Scott Cowan asserted that the individuals were members who worked at another pier, and they were allowed to vote. You stated that you believed the individuals belonged to a different ILA local, not Local 333.

Section 401(e) of the LMRDA provides that in any secret ballot election, "[e]ach member in good standing shall be entitled to one vote." 29 U.S.C. § 481(e).

The Department's investigation established that there were two polling sites for Local 333's officer election: the main site, at Dundalk Marine Terminal, and a satellite site at the union office for members who did not have port ID cards allowing them access to Dundalk Marine Terminal. The investigation further established that the voter eligibility list provided to the election judges at each polling site included only those members who were expected to vote at that particular polling site. The investigation determined that some of the members who were expected to vote at the union office instead went to the Dundalk Marine Terminal polling site to vote, and vice versa. The Department's investigation established that one such instance occurred when ██████████, a Local 333 member who does not have a port ID card and whose name did not appear on the voter eligibility list at the Dundalk Marine Terminal polling site, was initially prevented from casting his ballot by election judge ██████████. The investigation established that ██████████ was subsequently identified as a member in good standing of Local 333 and was properly allowed to vote in the election.

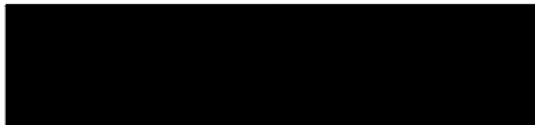
However, the Department's investigation determined that Local 333 members with port ID cards who went to the union office to vote were required to cast challenged ballots because their names did not appear on the voter eligibility list used at the union office polling site. The Department's investigation established that the 19 challenged ballots – all cast by Local 333 members who were eligible to vote – were not counted in the election. This failure to count eligible voters' ballots violated the LMRDA. However, the Department's investigation concluded that this violation could not have affected the

outcome of the election. Under section 402(c) of the LMRDA, a union election is set aside only where the violation may have affected the outcome of the election. 29 U.S.C. § 482(c). The smallest vote margin, in the race for the fifth executive board position, was 29 votes. Therefore, this violation could not have affected the outcome of the election.

Finally, you raised other allegations that were not raised in your protest to the union. Section 402(a) of the LMRDA requires that a member exhaust the remedies available under the union's constitution and bylaws before filing a complaint with the Secretary of Labor. 29 U.S.C. § 481(a). These allegations were not properly exhausted and were not investigated by the Department.

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,



Tracy L. Shanker  
Chief, Division of Enforcement

cc: International Longshoremen's Association  
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