



November 29, 2011

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your August 15, 2011 complaint filed with the United States Department of Labor alleging that while conducting the June 23, 2011 election of officers, the International Brotherhood of Electrical Workers (IBEW), Local 611 violated Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U.S.C. §§ 481 - 484, by rejecting the election results and ordering a new election.

The Department's investigation found that you were the winning candidate for business manager/financial secretary in the June 23 election, having defeated the incumbent, [REDACTED], by a margin of seven votes. The margins in the election ranged from 1 to 125 votes, out of a total of 937 ballots cast. You alleged that the evidence presented by the incumbent and others in their appeals to the IBEW challenging the election did not support the union's decision to order a rerun of the election. The Department conducted an investigation of your allegations and has concluded that the IBEW's decision to order a new election did not violate the LMRDA.

The requirement set out in section 402(a) of the LMRDA that a member exhaust internal union remedies before filing a Title IV complaint with the Department, was included to give unions a chance to correct election problems and deficiencies, thereby preserving a maximum amount of independence and encouraging responsible self-government. In furtherance of this legislative objective, the Department accords a degree of deference to decisions on internal union election protests providing for the conduct of a new election. The Department will not seek to reverse a union's remedial decision to hold a new election, even if the evidence could be viewed as insufficient to support a decision by the Department to sue to overturn the original 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 is unreasonable. It is within this context that the Department analyzed this complaint.

The primary basis for the union's decision to rerun the election was that an unknown number of members may have been denied the right to vote when their voted ballots were returned to sender because of insufficient postage. The union also noted that the election committee improperly ruled 6 eligible voters ineligible, and counted 23 ballots that had been submitted outside the "official ballot" envelope, in violation of the election rules.

You alleged that the union's decision to order a new election was not reasonable because the union placed adequate postage on the return ballot envelopes and made adequate efforts to inform members of the postage problem before the ballot return deadline. The investigation confirmed that voted ballots were returned to members due to insufficient postage. It appears that this postage issue occurred because, rather than the typical one-page ballot, the union included a two-page ballot, which when folded in a certain way, required additional postage because of the thickness of the envelope. Specifically, the Department found that five ballots were not counted because they were received after the election deadline. Each ballot previously had been returned to the member for additional postage. In addition, the Department found that at least two members had their ballots returned for additional postage, and stated that they did not re-send the ballots because they would miss the deadline. Although the union learned of the problem on June 15, 2011, and attempted to notify members via the union's website and job hotline, it is unclear how many members' votes may have been affected. Moreover, you and the union both acknowledge that the union's notification methods would not have reached all the members, making it impossible to tell how many members were affected.

Based on its investigative findings and general deference to remedial actions taken by the union, the Department determined that the union's decision was not based on the application of a rule that violates the LMRDA. Contrary to your allegations, there is no indication of bias or bad faith in the conduct of the union's internal investigator, or in the union's decision to rerun the election. Given the union's stated justification - namely, securing a right to vote for those denied that right due to a ballot design oversight requiring additional postage - the decision to rerun was reasonable and consistent with the principles of union democracy.

Based on the above, the Department concludes that the investigation failed to disclose any violation of the LMRDA. Accordingly, we have closed the file on this matter.

Sincerely,

Patricia Fox, Chief  
Division of Enforcement

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