



September 22, 2011

[REDACTED]

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Dear [REDACTED]

This Statement of Reasons is in response to the complaint that you filed with the United States Department of Labor on February 4, 2011, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA), 29 U.S.C. §§ 481-484, occurred in connection with the election of officers of Graphic Communications Conference (GCC), IBT Local 458-M completed on November 1, 2010.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded that no violation within the scope of your complaint occurred that may have affected the outcome of the election. A discussion of each of these allegations follows below.

You alleged that Local 458-M improperly declared member [REDACTED] ineligible for the Executive Board - Metal Printer position due to his lack of experience in the Metal Printer branch.

The Department's investigation found that [REDACTED] worked as a "first pressman" in the litho industry, and had done so since 1991. Further, a review of the standardized job classification (SJC) codes for all Local 458-M members and branches of trade found that the "first pressman" position is classified under the "Web Press" or "Sheet Fed" branches - not the "Metal Printer" branch. The Department's investigation further found that Article V, Section 1(A) of the Local 458-M bylaws describes the makeup of the Executive Board as consisting "of all full time officers and ... elected members from Local 458-3M, to be elected from the following branches of the trade: Conventional Pre-Press (1); Electronic Pre-Press (1); Web Press-Paper (1); Sheet Fed-Paper (1); Press-Metal (1); Litho General Worker (1); Bindery J-1 (1); Bindery Support (1); 3-M Press (1); 3-M Specialty (1)."

Local 458-M interpreted this provision to mean that members must work in or have experience working in the branch they seek to represent in order to be an eligible candidate, and this was consistent with past practice in Local 458-M elections. Federal regulations state that "[t]he interpretation consistently placed on a union's constitution

by the responsible union official or governing body will be accepted unless the interpretation is clearly unreasonable.” 29 CFR 452.3. It is not clearly unreasonable for the union to interpret the language cited from the local’s bylaws as restricting candidacy to members working in or having experience in the branch the member seeks to represent on the executive board. The union’s interpretation of its bylaws with respect to candidate eligibility is not clearly unreasonable. Moreover, the investigation revealed that the union has historically interpreted its bylaws in this manner. Accordingly, there was no violation of the LMRDA as to this allegation.

You further alleged that Local 458-M improperly declared member [REDACTED] ineligible for the Executive Board – Web Press (WP) position by applying a 2-year good standing requirement in the Local 458-M bylaws, which you allege is inconsistent with the 12-month good standing requirement in the GCC/IBT District 4 Constitution and Laws.

The Department’s investigation found that [REDACTED] was placed in bad standing for the month of December 2008. Nominations for the 2010 Local 458-M election were completed approximately 22 months later, on September 20, 2010. Therefore, a 2-year good standing requirement would render [REDACTED] ineligible for office, whereas a 12-month good standing requirement would not. District 4 Council Constitution and Laws, Article IX, Section 3(a) provides that to be nominated for a local union office, an individual must be a member in good standing of the local union for *at least* twelve (12) consecutive months prior to nominations. Further, the District 4 Constitution and Laws provides that local unions may establish their own bylaws as long as they do not conflict with the District 4 Constitution.

Article VIII, Section 1(b) of Local 458-M’s bylaws provide that members must be in good standing for at least two (2) years immediately prior to nomination. Because the District 4 Constitution does not mandate that the good standing requirement of local unions must be *exactly* twelve months, but rather that they must be *at least* twelve months, the Local 458-M bylaws are not in conflict with the District 4 Constitution. Accordingly, there was no violation of the LMRDA as to this allegation.

The remaining allegations in your complaint filed with the Department – improper retiree voting and the failure to follow the meeting attendance requirement cannot be considered because of your failure to properly exhaust your internal union remedies. The Department may only consider complaints if the member filing the complaint has exhausted the remedies available under the constitution and bylaws of the local union and any parent body. 29 U.S.C. § 482(a)(1); 29 CFR § 452.135(a).

Article IX, Section 5(e) of the District Council 4 Constitution and Laws requires that all election protests must be signed by a member in good standing and delivered to the

Secretary Treasurer of the District Council no later than ten (10) days after the election results are mailed to candidates. Your allegation of improper retiree voting was not included in your initial protest to the union, despite your admissions that you were aware a proper referendum was held in order to allow retiree voting, and that you were aware prior to the election that retirees would be allowed to vote. Likewise, your allegation that Local 458-M failed to enforce the meeting attendance requirement for candidate eligibility was not included in your initial protest to the union, despite the fact that you were aware of this issue prior to the election by virtue of your attendance at the September 2010 Executive Board meeting where it was decided that Local 458-M would not adhere to the meeting attendance requirement. As you were aware of both of these issues prior to the election but did not include them in your initial election protest, the Department cannot include them as a basis for any legal action against Local 458-M.

For the reasons set forth above, it is concluded that there was no violation of the LMRDA that affected the outcome of the election, and I have closed the file in this matter.

Sincerely,

Patricia Fox,
Chief, Division of Enforcement

cc: George Tedeschi, President
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