



December 4, 2012



Dear [REDACTED]

This Statement of Reasons is in response to the complaint that you filed with the U.S. Department of Labor on August 29, 2012, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) occurred in connection with the election of officers for Local 236 of the International Brotherhood of Electrical Workers (IBEW), completed on June 1, 2012.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded that no violations occurred.

You alleged that Local 236 improperly denied a reasonable request to distribute campaign literature by accelerating the deadline for submitting campaign mailings. Section 401(c) of the LMRDA provides that unions are to comply with all reasonable requests of any candidates to have campaign literature distributed by the labor organization, at the candidate's expense. 29 C.F.R. § 452.67 Specifically, you alleged that on May 22, 2012, the election judge changed the due date for your campaign literature and payment from May 29, 2012 to May 23, 2012. You also alleged that this change prevented you from being able to complete a mailing.

The investigation revealed that the local held a candidates meeting on May 17, 2012, which you attended. At this candidates meeting, election judge [REDACTED] and the international representative explained that changes to the IBEW Constitution required that an outside printer label election campaign mailings. Although [REDACTED] and the international representative also announced at the May 17 meeting that Vincy's Printing could label campaign mailings, they explained that candidates could take their mailings to any printer. [REDACTED] and the international representative also announced a campaign mailing deadline of May 29, 2012, but they advised that if candidates wanted Vincy's Printing to handle a mailing, it would be better for candidates to turn in their literature by May 25, 2012. During the investigation, you confirmed that [REDACTED] and the international representative made these statements at the candidates meeting.

Later in the election period, ██████ attempted to contact all five Business Manager/Financial Secretary candidates regarding the timeframe for sending campaign mailings. During his interview with the Department, ██████ stated that he contacted candidates to advise them that campaign mailings delivered to Vincy's Printing on May 29 might not reach voters before the election. ██████ also stated that he did not change the campaign mailing deadline and that candidates knew they could use another printer.

In your interview, you disputed ██████ account of his phone call to you regarding the timeframe for making campaign mailings. You asserted that ██████ accelerated the campaign mailing deadline for candidates using Vincy's Printing to May 23, making it impossible for you to send campaign literature. However, you did not attempt to make a campaign mailing through another printer despite having been informed at the May 17 candidates meeting that you could use another printer.

The Department thoroughly investigated whether the Local changed the campaign mailing deadline, interviewing all of the Business Manager/Financial Secretary candidates, and found that most candidates interpreted the election judge's phone call as a suggestion and not a new deadline. One candidate for the Business Manager/Financial Secretary position stated that ██████ suggested he deliver his mailing in advance of the original deadline to guarantee that his mailing reached voters before the election. Two other candidates maintained that the deadline for campaign mailings never changed. These two candidates provided Vincy's Printing with stamped envelopes and had the printer copy the campaign mailing, stuff the envelopes, apply address labels, and then send the campaign mailing. Finally, a fourth candidate asserted that the election judge changed the deadline and did not give him the option to use another printer. However, this candidate did not attend the May 17 candidates meeting where the option of using another printer was discussed.

Section 402(b) of the LMRDA requires that the Department may only bring a civil action seeking Title IV remedies where the Department's investigation finds by a preponderance of the evidence that a violation occurred. Although there is some conflict among the witnesses' statements, the weight of the evidence supports a finding that the election judge did not change the deadline for making campaign mailings and did not prohibit candidates from using alternate printers to copy and assemble campaign mailings. Accordingly, the Department did not find by a preponderance of the evidence that the local denied a reasonable request to distribute campaign literature. There was no violation.

You also alleged that the local permitted ineligible members to vote. Article 15 of the IBEW Constitution provides that members in managerial positions shall not be allowed

to vote in local union elections. Section 401(e) of the LMRDA requires that covered elections be conducted in accordance with the union's constitution and bylaws. The investigation revealed that the local's membership included eleven managers who were ineligible to vote in the election. Out of these eleven ineligible managers, two attempted to vote and nine did not attempt to vote. The local used challenged ballots for the two ineligible managers who attempted to vote, and the local never counted the ineligible managers' challenged ballots. Because the local did not count the votes of any ineligible managers, the local did not violate its constitution. Therefore, there was no violation of the LMRDA.

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

Sincerely,

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Chief, Division of Enforcement

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