



November 16, 2012

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your August 30, 2012, complaint filed with the U.S. Department of Labor alleging that the United Steelworkers International Union, Local 2-187, violated Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) by rejecting the results of the April 11, 2012, election of officers and ordering a new election. The Department conducted an investigation of your allegations and concluded that Local 2-187's decision to rerun the election did not violate the LMRDA.

You alleged that the election protests presented to Local 2-187 at the May 9, 2012, meeting did not support the union's decision to rerun the election. You specifically alleged that the union's decision to rerun the election was not reasonable because the problems the union identified did not provide a sufficient basis to reject the results of the April 11 election of officers.

The investigation did not support your allegation. Section 402(a) of the LMRDA requires that a 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, 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 bases for the union's decision to rerun the election were that (1) ballots at the Wisconsin Rapids Converting polling site were placed in stacks rather than handed out; and (2) some members voting at Wisconsin Rapids voted at the incorrect polling location and therefore received incorrect ballots. These allegations, among others, were presented at the May 9 meeting. Two of the three individuals who filed election protests, Steve Nelson and Todd Koelzer, were winning candidates in the April 11 election. At the May 9 meeting, the membership voted to rerun the election on these bases. In addition to the problems raised at the May 9 meeting, the union noted during the Department's investigation that a third reason the election should be rerun was that the same eligibility lists had been used at multiple polling sites.

With regard to the union's first basis for rerunning the election, the investigation confirmed that ballots were set out in stacks not only at the Wisconsin Rapids Converting polling site but also at the Wisconsin Rapids Base Mill polling site. Leaving ballots in stacks deviated from the union's standard practice, which was for tellers to hand each member a ballot, and compromised the election safeguards. Members could have taken more than one ballot.

With respect to the union's second basis for running a new election — members voted at polling places outside their assigned work areas and received incorrect ballots — the investigation determined that members were told only that voting would be at the mill clock houses and that nothing prevented members from voting at polling locations other than the one in their assigned work area. In Local 2-187 elections, each steward is elected only by the members he or she represents at a particular worksite, and only contested races appear on the ballots. Accordingly, the April 11 election included five different ballots. Members who voted at polling sites outside their assigned work areas received ballots that contained either no steward candidates or the incorrect steward candidates. The investigation discovered that seventeen members voted in the wrong polling location and that, as a result, eight members received the wrong ballot.

Finally, with regard to the union's third basis for rerunning the election, the investigation confirmed that all four Wisconsin Rapids polling sites used the same eligibility list and that both Biron polling sites used the same eligibility list. The

investigation confirmed that the number of ballots cast matched the number of signatures on the eligibility sign-in sheets, but the investigation also discovered that the use of the same eligibility list at all Wisconsin Rapids polling places permitted one member to vote twice. While the Department's investigation did not find that the inadequate safeguards affected the outcome of the election, the union is not held to the same standard as the Department is by § 402(b) of the LMRDA.

You also alleged that there were procedural irregularities at the May 9 meeting. Specifically, you alleged that (1) certain members were notified in advance that there would be a vote to rerun the election and (2) the election complaints were not read or discussed before the vote was held. The Department's investigation uncovered conflicting evidence regarding these alleged irregularities. Although some witnesses' statements indicated that other members received advance notice that the May 9 meeting would include a vote to rerun the election, other witnesses' statements and evidence, including the May 9 meeting agenda, indicated that the vote was not planned. Similarly, witnesses' statements contained widely varying accounts of the amount of discussion that was devoted to the election protests at the May 9 meeting. Because the evidence conflicts in the manner described, the Department could not find by a preponderance of the evidence that these alleged procedural irregularities occurred. *See* 29 U.S.C. § 482(b); 29 C.F.R. § 452.136. The evidence does not support a finding that the decision to rerun the election was biased or made in bad faith.

Based on the investigative findings and general deference to remedial actions taken by the union, the Department has determined that the union's decision was not based on the application of a rule that violates the LMRDA. Further, there is no indication of bias or bad faith in the union's decision to rerun the election. Indeed, two of the three members who protested the election – calling for a new, remedial election – were winning candidates. Given that the union wishes to rerun the election with adequate safeguards that protect every member's right to vote one ballot, 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 that the union's decision to rerun the election was a violation of the LMRDA. Accordingly, we have closed the file on this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

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