



April 24, 2013

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to the complaint that you filed with the U.S. Department of Labor on January 22, 2013, 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 1303 of the International Longshoremen's Association, AFL-CIO (ILA), completed on September 22, 2012.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded, with respect to each of your specific allegations, that no violation of the LMRDA occurred that affected the outcome of the election.

You alleged that [REDACTED] was ineligible to run for office because of a prior drug conviction and because he did not meet the one year working at the trade candidacy requirement. The investigation did not confirm this allegation.

With regard to the conviction, Section 504 of the LMRDA prohibits a person who, among other things, has been convicted of or imprisoned for a violation of narcotics law from serving as an officer of any labor organization for thirteen years after such conviction or imprisonment. Similarly, Article XIII, Section 5 of the ILA Constitution states that any member who has been convicted of or pleaded guilty to a criminal charge involving the sale of, importation of, or trafficking in narcotic drugs shall be ineligible to hold elective office in the ILA for a period of thirteen (13) years after such conviction or after the end of imprisonment, whichever is later. Section 401(e) of the LMRDA requires unions to hold covered elections in accordance with their validly adopted constitution and bylaws. *see* 29 C.F.R. § 452.2.

The investigation found that ██████ was convicted of possession of cocaine in 1996, and was jailed in 1998 for violating his probation. On July 11, 1999, he completed his jail time and was put back on probation. Thus, as of the August 18, 2012 nomination meeting, ██████ was not barred by Section 504 of the Act, or by the ILA Constitution, if applicable, because thirteen years had passed since ██████ imprisonment.

Furthermore, any use of ██████ record is questionable since his record was expunged in state court on September 22, 2010. There was no violation of the LMRDA.

With regard to the working at the trade requirement, Article XIII, Sections 3(a) and (b) of the ILA Constitution require candidates for office to have been in good standing and to have sought work in the trade of the Local for one year prior to nominations. In this case, the one year period ran from August 18, 2011 to August 18, 2012.

The investigation found that ██████ received workmen's compensation until September 30, 2011, and was cleared to return to work on January 13, 2012. ██████ disability settlement with Ports America, the local's major employer, prohibits him from working there. However, the investigation found that ██████ had 17 hours of wages from SSA Marine, the Local's other employer, after he was cleared for work, and consistently sought work. ██████ met the working at the trade requirement. There was no violation of the LMRDA.

You also allege that ineligible members voted. Specifically, you claim that members who had "cashed out" of the union but did not rejoin and new members who did not meet the one year requirement to vote were allowed to vote in the election. Article XIII Section 1(b) of the IU Constitution provides that each member in good standing shall have the right to vote in the election. It further provides that any member who is delinquent in his dues may pay his dues owed on election day and be permitted to vote.

The investigation found that while a member must be a member in good standing for at least one year preceding nomination to run for office, there is no one year requirement for voting. The investigation found that no member who had dropped membership had voted in the election. Investigation also determined that the 25 members who were added to the voter list on election day had paid dues that day or produced copies of receipts showing prior payment. No one was added to the list and allowed to vote who had not paid the dues they owed at the time. There was no violation of the LMRDA.

You also allege that you, as recording secretary, did not prepare or certify the voter eligibility list and that the list was not made available to members before the election. Article 5, Section 12 of the local bylaws provides that "a list of members in good standing as of October shall be prepared and certified by the Recording Secretary and

the Financial Secretary-Treasurer and shall be posted for examination of all members before the regular meeting" in August.

Section 401(e) of the LMRDA requires unions to hold covered elections in accordance with their validly adopted constitution and bylaws. *see* 29 C.F.R. § 452.2. In this case, the investigation found that the Local's office secretary, [REDACTED] prepared the voter eligibility list the day before the election. However, in order for a violation to be actionable, there must be evidence that the violation may have affected the outcome of the election; *see* 29 U.S.C. § 482(c)(2). The investigation found that no ineligible persons voted in the election. Therefore, even if [REDACTED] preparation of the list and the date of its preparation is a violation of the Local's Bylaws and the LMRDA, it had no effect on the outcome of the election.

In addition to the allegations discussed above, you also raised the allegation that you were demoted and fired for two days and the District failed to address the matter. Even if true, this would not violate requirements of Title IV of the LMRDA. Because this allegation was outside the scope of Title IV, it was not subject to the Department's investigation.

For the reasons set forth above, the Department has concluded that no violation of the LMRDA occurred, and we have closed the file in this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

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