



April 7, 2015

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed with the U.S. Department of Labor on November 3, 2014, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the runoff election of officers of Local 700 International Brotherhood of Electrical Workers (IBEW), conducted on June 24, 2014.

The Department of Labor conducted an investigation of your allegations, and as a result of the investigation, concluded that there was no violation that may have affected the outcome of the election.

You alleged that there was a discrepancy in the number of ballots (240 ballots) mailed in the original June 3, 2014 election, and the number of ballots (262 ballots) mailed in the June 24, 2014 runoff election. You alleged that the 22-ballot discrepancy indicated that ineligible members voted in the runoff election. Section 401(c) of the LMRDA, requires the union to provide adequate safeguards to insure a fair election.

Contrary to your assertions, the Department of Labor election record review disclosed that 255 ballots were mailed in the original election and 262 ballots were mailed in the runoff election, a discrepancy of seven ballots. The investigation further disclosed that the discrepancy was due to the fact that, during the interval between the original and run-off elections, several members became eligible to vote by paying dues arrearages. The Department's review of the list of members who voted disclosed that all were eligible to vote; no ineligible members voted in the runoff election. There was no violation.

You alleged that your name and your opponent's names were not listed in alphabetical order on the run-off ballot, in violation of Local 700 Bylaws. Section 401(e) provides, in relevant part, that unions conduct their elections in accordance with their constitution and bylaws, insofar as they are not inconsistent with the provisions of the LMRDA. Article III, section 4(b) of Local 700 Bylaws provides, in relevant part, that the election

board shall have ballots prepared listing in alphabetical order the names of all candidates for each respective office.

The investigation confirmed that your opponent's name, [REDACTED], preceded your name; alphabetically, your name should have been placed ahead of [REDACTED]. This violated the local bylaws. However, it is the Department's long-standing policy that the order in which candidates' names are listed on the ballot does not affect the outcome of the election. In any event, you were not disadvantaged by the violation because local members were very familiar with your name [REDACTED]. There was no violation that may have affected the outcome of the election.

You alleged that, on four separate occasions between the original and runoff elections, both [REDACTED] (your opponent), and an organizer campaigned on union time while at the Exide Plant. Section 401(g) prohibits the use of union moneys to promote any member's candidacy. This prohibition extends to officers campaigning while on time that is paid for by the union. 29 C.F.R. § 452.76. You identified two witnesses to the alleged campaigning.

The investigation disclosed that neither you nor your two witnesses saw [REDACTED] or the organizer in question campaigning at the Exide Plant. One of your witnesses implicated the then-current Exide unit chairman as the source of this allegation. The unit chairman vehemently denied that [REDACTED] or his organizer campaigned four times at Exide. According to the unit chair, [REDACTED] followed the protocol by seeking permission to distribute his campaign material in the Exide parking lot. The unit chair and [REDACTED] both stated that [REDACTED] distributed his campaign material outside Exide in the parking lot on one occasion. He arrived at the lot sometime between 5:30 a.m. and 6:00 a.m., stayed for approximately one hour and left before his work shift commenced at 8:00 a.m. There was no violation.

You alleged that the ballot did not identify the business manager/financial secretary as a delegate to the International Convention as provided under the IBEW Basic Laws & Policies. Section 401(e) provides, in relevant part, that unions conduct their elections in accordance with their constitution and bylaws, insofar as they are not inconsistent with the provisions of the LMRDA.

Article VIII, section 3(a) of Local 700 Bylaws provides, in relevant part, that the business manager shall, by virtue of his office, serve as a delegate to the International Convention. The IBEW Basic Laws & Policies, at page 31, provide that where an officer is to also serve as a convention delegate the ballot must so state. For example, where the business manager is also to serve as a delegate to the International Convention, the ballot should list the office as "Business Manager - Delegate to International

Convention,” indicating to members that a vote for the business manager is also a vote for delegate to the International Convention.

The investigation disclosed that the ballot did not identify the business manager as the delegate to the International Convention. The local’s omission violated the IBEW Basic Laws & Policies, but did not violate the LMRDA. The LMRDA has no requirement that an officer serving as delegate must be so identified on the ballot. The Secretary’s Interpretive Regulation speaks to this issue in non-mandatory terms, stating that it is *advisable* to have a statement on the ballot that identifies those officers who, by virtue of their election to office, serve as delegates to a convention in which officers will be elected, if the constitution and bylaws of the labor organization so provide. 29 C.F.R. § 452.120.

Failure to provide the language would not invalidate the business manager election. Moreover, members did have some notice that the business manager would serve as convention delegate as the local’s combined nominations and election notice identified the business manager as also running for delegate to the International Convention.

You alleged the local violated its bylaws when it did not leave a place on the return envelope for members to write their names and addresses. Section 401(e) provides, in relevant part, that union elections must be conducted in accordance with the constitution and bylaws. Article III, section 4(f) of Local 700 Bylaws requires that the return ballot envelope “shall contain a space in the upper left hand corner where the member shall place his or her name and address.”

The investigation disclosed that the local pre-addressed each return envelope with the voter’s name and address on the upper left hand corner of the larger return envelope. To the extent that this constituted a technical violation of the local bylaws there was no effect because the pre-printed names and addresses allowed the union to identify whether the sender was an eligible voter.

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

Sincerely,

Patricia Fox
Chief, Division of Enforcement

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