



March 4, 2015



Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed on October 10, 2014, with the U.S. Department of Labor alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the election of officers conducted by Local 415, International Association of Theater and Stagehands (IATSE) from June 5 through July 7, 2014.

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

You alleged that the local improperly allowed members who failed to meet the working in the trade (WIT) requirement to run for office. The investigation revealed that the union constitution required candidates for union office to be actively engaged in the industry within a local's jurisdiction and to have worked in the trade for at least 120 days in the past 36 months. The Department's regulations state that unions may reasonably require officer candidates to be employed in the trade for a reasonable period. 29 C.F.R. § 452.41(a).

However, the investigation confirmed that the union did not apply the WIT requirement in this election. The investigation also confirmed that the union acted consistently with the LMRDA in not doing so, because the union could not uniformly or fairly apply the WIT requirement. Union records, the local's job sign-in sheets and Call Steward records were not maintained in a manner that would allow the union to uniformly verify actual work days. Furthermore, neither the constitution nor any union guidelines define what constitutes a day worked. Members' jobs vary as to the number of hours worked. The union's decision not to apply the requirement was the most appropriate course of action here. The nomination notice did not state that members had to satisfy the requirement, so members were not misled concerning eligibility to run for office. There was no violation of the LMRDA.

You also alleged that [REDACTED] and [REDACTED] did not meet the two years continuous good standing requirement to run for office. However, Article 5, Section 18 of the constitution and bylaws provides that members shall not lose good standing unless suspended. The investigation confirmed that neither candidate had lost good standing by being suspended in the last two years. Therefore, there was no violation of the LMRDA.

You further alleged that the Local violated the LMRDA and the constitution and bylaws when it mailed ballots more than twenty days before the election date. Article 8, Section 6 of the local's constitution and bylaws provides that all ballots must be mailed twenty days prior to the date of the election. In previous elections, the local has consistently interpreted the bylaw to mean that ballots should be mailed *at least* twenty days prior to the date of the election rather than exactly twenty days prior.

The Department of Labor will accept the interpretation consistently placed on a union's constitution by the responsible union official or governing body unless that interpretation is clearly unreasonable. 29 C.F.R. § 452.3. The union's interpretation is not clearly unreasonable. There was no violation of the LMRDA.

Finally, you alleged that the local violated the LMRDA by denying you the right to have an observer at the ballot preparation and mailing. The Department of Labor's interpretative regulations state that "candidates must be permitted to have an observer present at the preparation and mailing of the ballots," 29 CFR § 452.107(c); 29 U.S.C. 481(c). Pursuant to this requirement, the union may not refuse a candidate's request to have an observer present at the preparation and mailing of the ballots. However, there is no statutory requirement for unions to notify candidates in advance of when ballots are to be prepared or mailed.

In this case, the ballots had already been mailed out by the time you contacted the local about observing the ballot preparation and mailing. The investigation did not reveal any disparate treatment of candidates such as other candidates being advised in advance of when the preparation and mailing of ballots would occur. There was no violation that affected the outcome of the election.

For the reasons set forth above, it is concluded that there was no violation of the LMRDA.

As to your allegations that the local improperly allowed a member to serve as election judge and that the local failed to check candidates' compliance with Section 504 of the LMRDA, these issues were not properly exhausted under section 402 of the LMRDA in that you did not raise these issues with the union until your September 17, 2014 appeal

to the local membership. Furthermore, the local's failure to check candidates' compliance with Section 504 is not, in and of itself, a violation of Title IV. The issue of your disqualification from candidacy was also not properly exhausted in that it was never protested to the union. Accordingly, I have closed the file on this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

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