



March 17, 2015



Dear [REDACTED]:

This Statement of Reasons is in response to your June 25, 2014 complaint filed with the U.S. Department of Labor alleging that a violation of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the election of officers conducted by the Laborers International Union of North America (LIUNA), Local 261 on June 18 and 19, 2014.

The Department of Labor 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 that may have affected the outcome of the election.

You alleged that the election judge did not require the incumbent candidates to complete a candidate questionnaire and properly appear before the election judges as required by the constitution. Section 401(e) of the LMRDA provides that any election required to be held by secret ballot election shall be conducted in accordance with the constitution and bylaws of such organization insofar as they are not inconsistent with the provisions of Title IV. Article VI, Section 2(c) of the Uniform Local Union Constitution (ULUC) of the LIUNA, provides that when the nominations have been completed, "candidates are required to appear at such time and place and be examined unless absent on business for the Local Union, for the District Council or for the International Union, or excused for just cause by the Judge of Election."

The Department's review of election records established that all 19 candidates listed on the ballot completed and submitted candidate questionnaires. These questionnaires were provided to Local 261's bookkeeper for review and for a determination as to whether or not the candidate possessed all of the qualifications required to hold office. There is no evidence that any of the candidates were required to appear before the judge of election and be examined. Even if it could be said that there was a violation of the LMRDA because the candidates did not appear before the judges of election, there was no effect on the outcome of the election because all candidates were treated

similarly and an eligibility determination was made for all of the candidates by the bookkeeper.

You alleged that the election judge failed to follow the constitution by allowing member [REDACTED] to participate in the election without being properly excused from the nominations meeting by a vote of the membership. Section 401(e) of the LMRDA provides that any election required to be held by secret ballot election shall be conducted in accordance with the constitution and bylaws of such organization insofar as they are not inconsistent with the provisions of Title IV. Article VI, Section 1(f) of ULUC of the LIUNA, provides that: "members properly nominated shall be nominated by two (2) other members in good standing and shall be present at the time of nomination, unless absent from the meeting on business for the Local Union, for the District Council, or for the International Union, or excused for just cause by a vote of the membership of the Local Union and shall indicate immediately upon nomination whether it is accepted or declined."

The Department's investigation established that [REDACTED] was nominated for the office of executive board at the May 12, 2014 nomination meeting. The minutes of this meeting reflect that a motion was made and seconded to excuse [REDACTED], and the attendees voted to approve his absence from the nominations meeting. The evidence revealed that [REDACTED] provided a letter dated May 2, 2014 to [REDACTED], the Chief Judge of Elections, which served as his letter of acceptance if nominated as an executive board candidate. There was no violation of the LMRDA.

You alleged that the election judges improperly applied a continuous good standing candidate eligibility requirement when candidate [REDACTED] was declared eligible to run for the office of recording secretary. Section 401(e) of the LMRDA provides every member in good standing shall be eligible to be a candidate and to hold office subject to section 504 and to reasonable qualifications uniformly imposed. Article V, Section 1 of the ULUC of the LIUNA provides that in order to qualify for any office in a local union, a member shall be required to have been in good standing in the local union for a period of two years immediately prior to nomination and to be current in the payment of dues. Also, Article VIII, Section 4 of the ULUC provides that the monthly dues are due on the first day of the month and unless paid on or before the last day of the following month, the member shall be deemed suspended by the International Union without notice.

The investigation established that Local 261 had a long-standing practice and policy of allowing members to pay their dues on the first day of the third month without penalty of suspension and that this practice was consistently applied to all members. While this

practice is not consistent with Article VIII, Section 4 of the ULUC, the union's practice does not otherwise offend the LMRDA as it was known to members and applied consistently.

The Department's review of dues payments confirmed that Local 261 had an established practice of allowing members to pay on the first day of the third month without incurring any suspension penalties. A review of [REDACTED] dues payment history showed that the database converted him to "suspended" on March 1, 2013 for failing to pay his January 1, 2013 dues. A review of the union's dues records confirmed the receipt of [REDACTED] dues on March 1, 2013 for his January 2013 payment. Inasmuch as his dues were received on March 1, 2013, his status changed to "active" and he was no longer deemed suspended by the local. [REDACTED] also paid his February 2013 dues payment on April 1, 2013. However, he was not put in "suspended" status for that payment. Thus, [REDACTED] was eligible to run as a candidate in the election. There was no violation.

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

Sincerely,

Patricia Fox, Chief
Division of Enforcement

cc: Terry O'Sullivan, General President
LIUNA
905 16th Street, N.W.
Washington, D.C. 20006

Ramon Hernandez, Business Manager
Laborers Local 261
3271 18th Street
San Francisco, CA 94110

Christopher Wilkinson, Associate Solicitor for Civil Rights Labor Management