



April 18, 2016

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your September 28, 2014 [REDACTED], September 29, 2014 [REDACTED], September 30, 2014 [REDACTED] and October 1, 2014 [REDACTED] complaints filed with the U.S. Department of Labor ("the Department") 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 conducted by the International Brotherhood of Electrical Workers, Local 292 ("the Local") on June 10, 2014.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded that no violation occurred that may have affected the outcome of the election. The following is an explanation of this conclusion.

In your complaints, you raised 44 allegations. Many of those allegations overlap. To avoid duplicative explanation, your allegations have been condensed into several broad topics that cover each of your individual allegations. All of your in-scope allegations are addressed in this letter.

In your complaints, you made several allegations that the Local improperly used union funds in violation of section 401(g) of the LMRDA.

First, you allege that incumbent Business Manager Peter Lindahl improperly used union funds when he used the union email to send a campaign message. Under both the union's constitution and the LMRDA, union funds cannot be used to promote the candidacy of any member in an election. Use of union funds includes campaigning on union time and using union resources to campaign. The investigation revealed that Mr. Lindahl sent an email on May 13, 2014 to 139 union members. Mr. Lindahl's email, contained legitimate union business, but also communicated that he intended to run in the upcoming election. After being informed of the email, Election Judge [REDACTED], to avert any potential problem caused by Mr. Lindahl's actions, determined that the other candidates should be provided the opportunity to email the membership. [REDACTED] then offered the other candidates the opportunity to have the union email to members a personal biography in aid of their campaigns, Section 402(b) of the LMRDA requires the Department to seek to correct violations of the statute that "has not been remedied." To the extent [REDACTED] felt the email was campaigning, her response to the email remedied any violation. The Department determined that the email was informational and conveyed union business. . There was no violation..

Second, you allege that Mr. Lindahl improperly used union funds for campaign purposes by campaigning at the Local's banner event held at the mall on May 13, 2014. Specifically, you allege that he was passing out campaign literature while working in his capacity as the Local's Business Manager. The Department's interview of witnesses, Local officials, and Local members resulted in varied responses. Only one member claimed to have witnessed Mr. Lindahl passing out campaign literature, but he did not receive the literature himself. All other witnesses, including Mr. Lindahl, either denied that Mr. Lindahl was campaigning or were unsure. Mr. Lindahl stated to the Department that he did not campaign at the mall until May 16th, which was after he was no longer working for the union.. Mr. Lindahl also stated to the Department that he did not have his campaign literature until the evening of May 13th, after the alleged campaigning at the banner event would have taken place. Accordingly, there is insufficient evidence to determine that Mr. Lindahl did campaign on union time. There was no violation of the Act.

In your complaints, you made several allegations questioning the integrity of the election process. Section 401(c) of the LMRDA requires that unions provide adequate safeguards to ensure a fair election.

First, you allege that the Local failed to provide adequate safeguards when absentee ballot requests revealing member card numbers were distributed. Members needed their card numbers in order to request an absentee ballot. The Department was able to confirm that some union stewards requested card numbers for members who had specifically requested their number from that steward because they could not remember their numbers. There was no violation in the Local's actions of complying with member requests for their numbers, and there was no evidence of failure to provide adequate safeguards by the Local.

Second, you alleged that there was voter confusion due to the Local providing the wrong P.O. box address to voters requesting absentee ballots. You alleged that the Local provided the P.O. box number for the *voted absentee ballots* to members requesting *absentee ballot forms*. The Department's investigation revealed that the union did initially confuse the two P.O. boxes. However, the Local recognized the mistake and instructed the tellers to check both P.O. boxes each day in search of any absentee ballot request forms that may have been inadvertently sent to the voted absentee ballot P.O. box. However, the Department's investigation determined that, on the day of the election, two absentee ballot request forms were in the *voted absentee ballot* box. The Department reviewed the records and determined that one of those voters voted in person at the polling site. The other member did not vote. The Department cannot determine whether this member's request for an absentee ballot was timely received, given the date of the postmarked envelope. Nevertheless, assuming that the request was on time and the union's failure to send an absentee ballot was a violation, this one vote only could have had an effect on the outcome of the election for Executive Board that ended in a tie vote. That race was rerun.

Third, you allege that the union failed to provide adequate safeguards when the election judge altered voted ballots at the time of the election. You allege that the Local's election teller filled in ballots of voted absentee ballots for illegible ballots. The Department investigated your allegation and independently examined the voted ballots. The investigation revealed that the Local acknowledges that the teller did, in fact, fill-in voted ballots by darkening the voter's selection where the markings were too light for the machine to properly read. The Department found that there were seven absentee ballots that could not be read by the machine and darkened by the teller. These markings were done in front of other tellers and observers were present. This process did not violate the statute. In reviewing the ballots, the Department found that one ballot had been completely voided when it should not have been. The Delegate race on the ballot should have been voided, due to an over-vote, but not the entire

ballot. The Department counted this ballot in the election recount and the recount did not change any of the voting margins. An improperly voided ballot is a violation of the LMRDA. However, because it was only one vote and it did not change the election results, there could have been no effect on the outcome of the election.

In your complaints, you made several allegations that the Local failed to conduct its election by secret ballot in violation of section 401(b) of the LMRDA.

First, you allege that the union counted one absentee ballot after the tally. The Department's investigation revealed that the Election Judge, [REDACTED], had allowed members to come into the union office, request a ballot and vote a ballot if there was a teller present. Voted absentee ballots were then put in a locked cabinet. One member had voted in this manner but his ballot was not discovered in the drawer until after the tally. The member's ballot was still sealed. [REDACTED] informed everyone at the tally what had happened. The election committee decided that the overlooked ballot had been a mistake and decided to count the ballot. Your observers also verified that the incident appeared to be an accident and offered no evidence of impropriety. The Department confirmed that the ballot was properly voted prior to the polls closing and that the member was an eligible member. Under the circumstances, the election committee could identify the member and how he voted. However due to the fact that observers, candidates and union officials recognize that this was an accident or oversight attributable to the incumbents and was not revealed to be systemic, it was not unreasonable for the union to count this ballot. However, the Department has determined that, in circumstances where the only choice is to fail to count a member's vote or to count it in a manner that reveals the vote, the statutory interests weigh on the side of counting the member's vote. The ballot was cast in secret. Thus, the Local's decision to count the vote did not violate the Act.

In your second secrecy allegation, you allege that members had help filling out and mailing their absentee ballots. The Department interviewed over 50 union members to determine whether members had help filling out their ballots. Only one member claims to have been helped in filling out his ballot by a union steward. That steward denied that he helped any members with their ballots. Because of these conflicting statements, it is unclear whether a violation occurred with respect to this one member. However, even if a violation did occur, it would only affect one vote. Thus, the violation could not have affected the outcome of the election.

Finally, you alleged that members were denied the right to vote when an apprentice, who presented a dues slip, was turned away at the polls because he had not been sworn in as a member with full voting rights. Section 401(e) of the LMRDA provides that every member in good standing has a right to vote. The Department's investigation confirmed an apprentice was turned away at the polls and informed he needed to be

sworn in at the membership meeting that day before voting. The investigation also revealed that the Local conducted a membership meeting that night, prior to the closing of the polls, that eight new members were sworn in, and that all eight new members voted. There was no evidence that a new member was denied the right to vote and thus, no violation.

For the reasons set forth above, it is concluded that no violation of the LMRDA occurred that may have affected the outcome of the election. Accordingly, the office has closed the file on this matter.

Sincerely,

Sharon Hanley
Chief, Division of Enforcement
Office of Labor-Management Standards

cc: Beverly Dankowitz, Acting Associate Solicitor
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