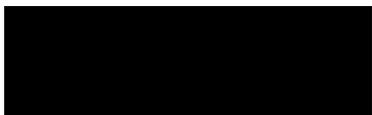




March 24, 2017



Dear [REDACTED]

This Statement of Reasons is in response to your complaint to the Department of Labor, received August 26, 2016, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), occurred in connection with the June 9, 2016 general election of union officers and the June 30, 2016 run-off election for the position of business manager/financial secretary held by Local 159 (local or Local 159), International Brotherhood of Electrical Workers (International).

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

You alleged that the local violated its bylaws when the election committee chair (ECC) hand-delivered an absentee ballot for the June 9, 2016 general election. Section 401(e) requires unions to comply with their constitution and bylaws when conducting an election. As the local's bylaws are silent on the propriety of hand-delivering absentee ballots to members, there was no violation of section 401(e). However, the hand-delivery of an absentee ballot violated another provision of the LMRDA.

Section 401(c) requires unions to provide adequate safeguards to ensure a fair election, safeguards that, although not required under a union's constitution and bylaws, nevertheless must be observed. 29 C.F.R. § 452.110. Adequate safeguards encompass equal treatment of members. *See id.* The investigation disclosed that on or about June 1, 2016, the election committee chair hand-delivered an absentee ballot to the home of member Jeremy Waugh. The local did not hand-deliver an absentee ballot to any other members requesting an absentee ballot; all of whom were required to await the delivery of an absentee ballot by U.S. mail. This violation, however, did not affect the outcome of the election for any contested office in the general election because the lowest margin of victory was nineteen votes for executive board member. No absentee ballots were

hand delivered for the June 30 run-off election. There was no violation that may have affected the outcome of the election.

You also alleged that the ECC too narrowly interpreted the local bylaws when he required members requesting an absentee ballot to do so by U.S. mail but not email. As noted above, Article III, section 4(c) permits members to “make an application in writing to the election judge for an absentee ballot.” Nothing more is stated about the context or form of the writing. The local has interpreted its bylaws to mean that requests are to be made by mail. Even if the local’s interpretation is deemed to be not clearly unreasonable, *see* 29 C.F.R. 452.3 (a union’s interpretation of its constitution or bylaws will be accepted unless the interpretation is clearly unreasonable), the local again violated the adequate safeguards provision by not equally applying its absentee ballot procedure to all its members. The investigation disclosed that the ECC allowed ██████ to email a request for an absentee ballot form. By contrast, four other members who requested an absentee ballot by email were required to send in their request for an absentee ballot form by U.S. mail. The unequal treatment of members’ requests for an absentee ballot violated section 401(c). However, that violation did not affect the outcome of the election for any contested office. A review of the election records disclosed that only two of the four members did not cast a vote in the general election and, given that the lowest margin of victory in that election was 19, the effect of the violation (2) even when added to the effect of the previous violation (1) did not affect the outcome of that election.

Finally, you alleged that the local violated its bylaws by failing to collect absentee ballot requests within three days of both the June 9, 2016 general and the June 30, 2016 run-off elections. You state that failure to act within three days of the elections did not give members sufficient time to vote and return their absentee ballot, thereby denying those members the right to vote. As recited above, Article III, section 4(c) of the bylaws, allows a member to request an absentee ballot at any time within 30 days, but not less than five days prior to the election. The time limitation here is imposed not against the union but on the members themselves to request an absentee ballot no later than five days before the election. The local did not violate its bylaws. As such, there was no violation of the provision in section 401(e) which requires unions to conduct their elections in accordance with their constitution and bylaws.

However, the local did violate the Act by retrieving absentee ballot requests forms just three days prior to the election. Three days prior to the election did not allow sufficient time for the absentee ballot to be timely mailed to and returned by the requestor. Requestors were therefore denied the right to vote in violation of Section 401(e) of the Act. However, there was no effect on either the June 9 general or June 30 run-off elections. For the June 9 general election, the election committee collected two absentee ballot requests from its post office box on June 6 and mailed the absentee ballots on the

same day. For the June 30 run-off election, the election committee collected eight absentee ballot requests on June 27, again mailing an absentee ballot to each requestor on the same date. The Department's review showed that for the June 9 election, only one of the two members did not vote. For the June 30 election, six of the eight members did not vote. The remaining two members voted in-person but their votes were challenged and not included in the tally because they failed to turn-in their absentee ballots. Given that the June 9 general election's smallest margin of victory was 19 votes, and the combined violations from the June 9 regular election totaled 4 votes, there was no effect on the outcome of that election. Similarly, the June 30 run-off election was won by 21 votes, far in excess of the eight members whose votes were not included in the tally. There was no violation that may have affected the outcome of the election.

For the reasons set forth above, it is concluded that no violation of the LMRDA occurred. Accordingly, the office has closed the file in this matter.

Sincerely,

A large black rectangular redaction box covering the signature of the sender.

, Chief

Division of Enforcement
Office of Labor-Management Standards

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