

**U.S. DEPARTMENT OF LABOR
OFFICE OF LABOR-MANAGEMENT STANDARDS
WASHINGTON, DC 20210**

DETERMINATION

Determination of a Complaint Filed under Title IV
of the Labor-Management Reporting and Disclosure Act of 1959

On February 20, 2018, the Secretary of Labor received a complaint alleging violations of Section 401 of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), in the regularly scheduled election of officers conducted on November 11, 2017 by the Independent Soft Drink Workers Union (ISDWU) in Liberty Township, Ohio.

Pursuant to Sections 402 and 601 of the LMRDA, the Department of Labor conducted an investigation. The investigation disclosed that the union failed to provide proper notice of nominations in that notices were not reasonably calculated to reach all members and lacked the required information. The investigation also found that the union failed to provide adequate safeguards to ensure a fair election in that the union did not ensure that the membership address list was accurate and up to date; the union did not adopt controls to protect the ballots; candidates distributed and received absentee ballots; photo identification was not required to verify voter eligibility; and one candidate was permitted to remain at the polls all day on election day while two candidates were instructed to leave. The investigation further concluded that the union failed to mail an election notice; moreover, the union failed to provide all members proper notice of the election, and failed to inform members of the polling hours. Additionally, the union failed to adhere to the LMRDA's ballot secrecy requirement in that it counted a ballot identifying the voter, and did not ensure ballot secrecy for members who voted an absentee ballot. The union also failed to properly count the ballots in that it counted a ballot that appeared to be photocopied or duplicated. Finally, the investigation concluded that the union failed to maintain election records, failed to publish election results, and failed to follow its constitution and bylaws in that a candidate served on the election committee and a full (five-person) election committee was not appointed.

Apprised of these findings, the ISDWU agreed to conduct a new election under the supervision of the Secretary of Labor, in accordance with Title IV of the LMRDA. The agreed upon remedial election was concluded on June 23, 2018. It is, therefore,

DETERMINED, that there is probable cause to believe that violations of Title IV of the LMRDA occurred which may have affected the outcome of the election conducted by the ISDWU on November 11, 2017, but that these violations have been remedied by the new election, conducted in accordance with Title IV of the LMRDA, under the supervision of the Secretary of Labor, on June 23, 2018.

Therefore, civil action under Section 402(b) of the LMRDA to set aside the election conducted on November 11, 2017 is not warranted.

Signed this 4th day of October, 2018.



Sharon Hanley
Chief, Division of Enforcement

U.S. Department of Labor

Office of Labor-Management Standards
Division of Enforcement
Washington, DC 20210
(202) 693-0143 Fax: (202) 693-1343



October 4, 2018

[REDACTED]

Dear [REDACTED]

The enclosed Determination represents the Department's final disposition of the matter mentioned therein.

Sincerely,

[REDACTED]

Sharon Hanley
Chief, Division of Enforcement

Enclosure

U.S. Department of Labor

Office of Labor-Management Standards
Division of Enforcement
Washington, DC 20210
(202) 693-0143 Fax: (202) 693-1343



October 4, 2018

Gary Freeman, President
Independent Soft Drink Workers Union
11128 Hanover Road
Cincinnati, OH 45240

Dear Mr. Freeman:

The enclosed Determination represents the Department's final disposition of the matter mentioned therein.

Sincerely,

[Redacted signature]

Sharon Hanley
Chief, Division of Enforcement

Enclosure

U.S. Department of Labor

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October 4, 2018

[REDACTED]

Dear [REDACTED]:

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Sincerely,

[REDACTED]

Sharon Hanley
Chief, Division of Enforcement

Enclosure