



December 20, 2018

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to the complaints you filed with the Department of Labor on February 9 and March 7, 2018, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the November 2017 mail ballot election of union officers conducted by Local 1105, Communications Workers of America (CWA). As explained in more detail below, Local 1105 voided the officer election that was scheduled for November 6, 2017, and held a new election November 27, 2017.

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

In your first protest to the union, dated October 30, 2017, you alleged that members' voted ballots were being returned to them in the mail. In your second protest to the union, dated November 20, 2017, you acknowledged that the election was re-done with new ballots sent to the members on 11/9 and a new deadline date of November 27, 2017 was set for returned ballots. However, you included this same returned ballot allegation in your complaints to the Department.

Section 401(e) of the LMRDA provides that in any secret election, "[e]ach member in good standing shall be entitled to one vote." Section 401(c) of the LMRDA requires unions to provide adequate safeguards to ensure fair elections.

As you are aware, Local 1105 originally mailed ballot packages to members on October 19, 2017, and ballots were originally due November 6, 2017. The investigation disclosed that, a few days after the ballots were mailed, members began calling the election committee chair, [REDACTED] stating that their voted ballots had been returned to their home addresses. The investigation established that [REDACTED] contacted the union's contracted printer after receiving numerous such calls from members. [REDACTED] learned

that the printer had placed bar codes on the ballot return envelopes that were causing some envelopes to be returned to voters. ██████ stated that he determined in late October that it was necessary to void the original election and mail new ballot packages to members.

As you acknowledged, on November 9, 2017, Local 1105 mailed new ballot packages with a new due date of November 27, 2017. The investigation disclosed that the new mailing contained envelopes that were a different color from those in the original ballot packages and did not have problematic bar codes. The membership was notified of the new election tally date through use of a rolling scroll on the Local 1105 website informing members to contact the official TAPE phone number which is generally used by the union to provide members with information. Additionally, the local posted a message on its Facebook page that the TAPE message had been updated. The Department's investigation disclosed that the union did not open or tally any of the voted ballots from the original mailing. Only the voted ballots from the corrected mailing were opened and tallied. Therefore, any violation was remedied.

You also alleged that the Local 1105 executive board conducted its own election, which you alleged was a conflict of interest. In your protests to the union and interviews during the investigation, you specifically alleged that ██████ conducting the election was a conflict of interest.

As noted above, section 401(c) of the LMRDA requires a union to provide adequate safeguards to ensure a fair election. In addition, section 401(e) requires a union to conduct its election in accordance with its constitution and bylaws insofar as they are not inconsistent with the provisions of Title IV of the LMRDA.

Article XV section 4(a) of the CWA constitution directs each local union to select an election committee to conduct all elections. Accordingly, the Local 1105 bylaws require the nomination and election of local officers and business agents to be conducted under the supervision of the election committee (art. XIV sec. 3(a)). The bylaws require that members of all committees, including the election committee, be appointed by the local president (art. XI(c)). The bylaws prohibit members from serving on the election committee if they are candidates for any local office (art. XIV sec. 3(c)).

During the investigation, you acknowledged that ██████ is not a member of the Local 1105 executive board but an employee (and member) of Local 1105. The investigation disclosed that Local 1105 President Keith Edwards appointed ██████ to chair the election committee. The investigation established that neither ██████ nor any other member of the election committee was a candidate for local office in the November 2017 election. The investigation confirmed that the union's constitution and bylaws do not

prohibit members who are also staff employees from serving on the election committee. There was no violation.

In your protests to the union as well as your complaints to the Department, you requested that an independent election service conduct the election. As noted above, the CWA constitution and the Local 1105 bylaws provide for the conduct of local officer elections by an election committee appointed by the local president. The union's constitution and bylaws do not require the use of an independent election service. There is no requirement in Title IV of the LMRDA that a union use an independent service to conduct its elections. There was no violation.

Finally, you raised allegations in your complaints to the Department that had not been raised in your protests to the union. Section 402(a) of the LMRDA requires that a member exhaust the remedies available to him or her under the union's constitution and bylaws before filing a complaint with the Secretary of Labor. These allegations were not properly exhausted and were not investigated by the Department.

For the reasons set forth above, the Department of Labor concludes that there was no violation of the LMRDA that may have affected the outcome of the election. Accordingly, I have closed the file on this matter.

Sincerely,



Sharon Hanley  
Chief, Division of Enforcement

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