



December 20, 2018

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to your December 18, 2017 complaint to the Department of Labor, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), occurred in connection with the August 4, 2017 election of union officers held by Local 17 (local or Local 17), International Union of Operating Engineers (International).

The Department of Labor (Department) conducted an investigation of your allegations. As a result of the investigation, the Department concluded, with respect to your specific allegations, that there were no violations that may have affected the outcome of the election.

You alleged that the local violated the International Constitution and/or Local 17 bylaws in two instances. Specifically, you alleged that the local violated its bylaws by holding a mail ballot election rather than a polling site election as in past elections. Section 401(e) requires unions to conduct their elections in accordance with their constitution and bylaws. The investigation disclosed that Article XXIV, 1(e) of the International Constitution allows locals the option of holding their elections by mail ballot referendum. Further, nothing in the local bylaws prohibits Local 17 from holding a mail ballot election. There was no violation.

You also alleged that the local violated the International Constitution by displaying the names of unopposed candidates on the ballot. Nothing in the International Constitution or local bylaws or the LMRDA prohibits listing the names of unopposed candidates on the ballot. There was no violation.

In a related allegation, you asserted that the incumbent business manager, [REDACTED], and Northeast Regional Director [REDACTED] interfered in the August 4, 2017 election. Specifically, you alleged [REDACTED] advice, changed the local's past practice of holding elections at the polls to a mail ballot election. The investigation disclosed that [REDACTED] sought and obtained Pero's advice to hold a mail ballot election to increase the

local's voting franchise. On recommendation of the Regional Director, [REDACTED] hired an election company, Global Election Services (GES), to conduct its election---a common practice among labor organizations. As a result, the voting franchise increased from 100 voters at the polling election in 2014, to 972 voters in 2017. There was no violation.

You alleged that [REDACTED] used union funds to host retiree social functions in an attempt to buy votes and campaign to retirees who were eligible to vote in the election. Section 401(g) of the LMRDA prohibits the use of union funds to promote the candidacy of a particular individual(s) in an election. The investigation disclosed that the local held retiree socials in April, May, June and July 2017, a few months prior to the August 4, 2017 election. The socials were implemented after [REDACTED] and his administrative staff brainstormed about ways to increase retiree involvement in union affairs. They ultimately settled on having socials that occurred around 9 a.m. for coffee and doughnuts, and in warmer weather, held cookouts commencing at 11 a.m. These monthly retiree socials continue to date.

You were unable to provide the names of any attendees who witnessed [REDACTED] outwardly campaigning at these events. Two candidates for office, one of whom ran unsuccessfully against the incumbent business manager, stated that [REDACTED] briefly appeared at the meetings they attended but never sought anyone's vote or made any campaign speech. This is consistent with [REDACTED] statement that he did not campaign at any retiree event and that he specifically advised his staff to refrain from any campaigning. The investigation failed to reveal union sponsored campaigning in violation of Section 401(g). There was no violation.

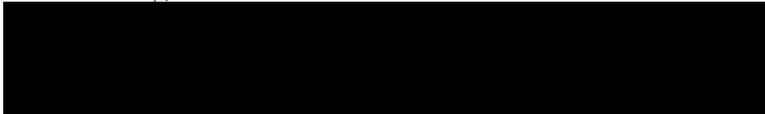
You alleged that ineligible members were permitted to vote in the election because the local applied a different standard of good standing to members from Charters 17S and 17C than to members in the five other charters. Section 401(e) provides in relevant part that every member in good standing shall have the right to vote. Article XXVI, section 7(c) of the International Constitution defines "good standing" to mean the payment of current dues within 30 days after they become due. The local deemed members in good standing as those who had paid dues through July 31, 2017.

All members of Charter 17C and 17S are on dues checkoff. Members from the other five charters pay their monthly dues directly to Local 17. Section 401(e) states, in part, that no member whose dues have been withheld by his employer for payment pursuant to his voluntary authorization provided for in a collective bargaining agreement shall be declared ineligible to vote or be a candidate for office in such organization by reason of alleged delay or default in the payment of dues. To circumvent any issues that may have resulted from a lag in payroll processing for those on dues checkoff, the local appropriately permitted all members of Charter 17S and 17C, all of whom were on dues checkoff, to vote, but required any member of the five other charters whose dues were

not paid by July 31, 2017, to cast a challenged ballot. The investigation showed there were 27 unopened challenged ballots. Those ballots were not opened and included in the tally because the lowest margin of victory was 61 votes, and opening the 27 ballots would not have affected the outcome of the election. There was no violation.

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,



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Chief, Division of Enforcement

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