



December 13, 2018

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on February 28, 2018, alleging that a violation of the election provisions of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U.S.C. §§ 481-483, occurred in connection with an officer election held on October 24, 2017, by the International Longshoremen's Association (ILA), Local 28 (Local or Local 28) in Pasadena, Texas.

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

You alleged that incumbent Local 28 Business Agent/Financial Secretary [REDACTED] ran as a candidate for the business agent/financial secretary position, but was not nominated for this position at the October 4, 2017 nominations meeting. Section 401(e) of the LMRDA provides that in any election required to be held by secret ballot a reasonable opportunity shall be given for the nomination of candidates. Article VIII, Section 1 of Local 28's bylaws state that the nominations of officers shall take place at the regular meeting in October of election years. The Department's investigation revealed that handwritten notes from the October 4, 2017 nominations meeting, which were taken by Local 28 Executive Vice President [REDACTED] and a copy of the official meeting minutes from the nominations meeting, which were taken by former Local 28 Recording Secretary [REDACTED], disclosed that Local 28 members [REDACTED] were nominated for the business agent/financial secretary position. There was no violation.

You alleged that Local 28's voting machines, which were used to conduct the challenged election, did not use paper ballots in violation of Article VIII, Section 7 of Local 28's Constitution and Bylaws. Section 401(e) of the LMRDA states that elections required to be held by secret ballot shall be conducted in accordance with the constitution and bylaws of such organization insofar as they are not inconsistent with

the provisions of the LMRDA. Local 28's Constitution and Bylaws, Article VIII, Section 7 does not mandate paper ballots but states that "the results of the election records, including ballots, shall be maintained by the local for at least one year and that the recording secretary shall preserve for one year the ballots and all other records pertaining to the election."

The Department's investigation established that for the past 30 years or more, Local 28 has used voting machines, which are owned by the Local, to conduct its elections. Prior to the challenged election, [REDACTED], a consultant, tested, inspected and loaded the ballot into the machines. On the morning of the election, candidates and observers were able to observe the voting machines' counters set to zero by [REDACTED]. During the ballot tally, candidates who were present had the opportunity to visually inspect the voting machines to view and verify the vote tally.

The Department's investigation revealed that on the day of the election, you confirmed that you were at the polling site, but did not vote in the challenged election, did not act as your own observer or have any observers at the polls or the ballot tally. Furthermore, you acknowledged that you did not think the voting machines were operated improperly, were tampered with in any way, or that voter secrecy was compromised during the election. The Department's investigation verified that voter eligibility lists, an official ballot and tally sheets, which were certified by the election committee, were maintained by the Local 28. A review of the vote totals of each machine confirmed the election results for each office that appeared on the ballot. There was no violation.

Finally, you raised other allegations that, even if true, would not constitute violations of the LMRDA. Accordingly, these allegations are not addressed herein. For the reasons set forth above, the Department has concluded that there was no violation of Title IV of the LMRDA that had an effect on the outcome of the election, and I have closed the file regarding this matter.

Sincerely,

[REDACTED]

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Chief, Division of Enforcement

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