



November 14, 2018

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on September 17, 2018, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the election of officers that was scheduled to be conducted by the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, Local 9 (Local 9) on June 23, 2018.

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

You alleged that Local 9's business manager, [REDACTED], violated sections 401(c) and 401(e) of the LMRDA by intimidating potential candidates from running in the June 2018 election. Section 401(c) requires that a union provide adequate safeguards to insure a fair election. Section 401(e) requires that every member in good standing shall be eligible to be a candidate and to hold office, subject to reasonable qualifications uniformly imposed. During the investigation, you stated that you approached three members one month before nominations and told them that you intended to nominate them for office. You also stated that while all three members initially agreed to be nominated, they subsequently backed out because they feared [REDACTED] would blacklist them from receiving work. During your interview, you stated that you did not know the names of the three individuals you intended to nominate and could only remember their faces. When asked by a Department investigator how you would nominate individuals whose names you did not know, you stated that you would have asked for their names at the nominations meeting. You also stated that [REDACTED] and [REDACTED], both of whom were nominated for positions but later withdrew from consideration, were not among the three individuals you intended to nominate.

The Department's investigation found no evidence that [REDACTED] intimidated members from running for office. The Department investigator found no record of the three unnamed individuals you allege were intimidated. Furthermore, [REDACTED] denied intimidating anyone. Finally, the three candidates who withdrew from the election – [REDACTED] – all denied being intimidated. Specifically, [REDACTED] withdrew to focus on his job as an organizer and to allow someone else to gain experience, [REDACTED] withdrew because he did not want to run against his friend [REDACTED] withdrew after realizing he was not eligible to hold office. Accordingly, no violation occurred that affected the outcome of the election.

You also alleged that Local 9 violated sections 401(c) and 401(e) of the LMRDA by failing to re-open nominations when [REDACTED] withdrew his candidacy for the Finance Committee, instead appointing [REDACTED] to fill this vacancy. Section 401(e) requires that union members have a reasonable opportunity to nominate candidates for office. That provision also requires that elections be conducted in accordance with a union's constitution and bylaws insofar as they are not inconsistent with the LMRDA. Local 9 held a nominations meeting on May 22, 2018. During that meeting, [REDACTED] were nominated for two of the three positions on the Finance Committee. After no one else expressed interest in running for the third position, [REDACTED] agreed to be nominated. [REDACTED] withdrew from consideration on May 24, 2018 after realizing that he was not eligible to hold union office. As discussed above, [REDACTED] and [REDACTED] withdrew from their respective races, resulting in every position being uncontested. By letter dated May 25, 2018 (mailed on June 1, 2018), [REDACTED] informed Local 9's membership that there would not be an election because there were no contested positions. The new officers were installed at the June 2018 membership meeting. At that point, the Finance Committee had only two members. [REDACTED] was appointed to fill the Finance Committee vacancy at the July 2018 membership meeting.

The investigation established that Local 9's members had a full and fair opportunity to nominate candidates for office at the May 22 meeting. The investigation also established that Local 9's constitution and bylaws do not directly address candidate withdrawals. The LMRDA does not require unions to re-open nominations to replace withdrawn or otherwise disqualified candidates unless the union's constitution specifically requires action. Therefore, Local 9 had no obligation to re-open nominations after [REDACTED] withdrew. When new officers were installed in June 2018, the Finance Committee had one vacancy. Local 9 properly exercised its appointment power to fill this vacancy at the July 2018 meeting. Accordingly, no violation occurred that affected the outcome of the election.

You also alleged that [REDACTED] violated sections 401(c) and 401(e) of the LMRDA by appointing his son, [REDACTED], to the Executive Board. The investigation established that [REDACTED] did not appoint [REDACTED]. Rather, [REDACTED] was nominated for office at the May 22, 2018 nominations meeting in accordance with Local 9's constitution and bylaws. Specifically, the May 22 meeting minutes reveal that [REDACTED] nominated [REDACTED] and [REDACTED] seconded the nomination. [REDACTED] was installed during the June 2018 membership meeting because he ran unopposed for office. Accordingly, no violation occurred that affected the outcome of the election.

Finally, you also alleged that Local 9 violated sections 401(c) and 401(e) of the LMRDA by allowing [REDACTED] to hold both the business manager and financial secretary-treasurer positions. According to your complaint, allowing one person to serve as business manager and financial secretary-treasurer is a conflict of interest. However, the regulation at 29 C.F.R. § 452.31 provides that "[w]here a union constitution or other validly adopted rule provides that a single elected officer will perform the functions of more than one office, a separate election need not be held for each office." According to Article VIII of Local 9's bylaws, one individual may serve as both the business manager and financial secretary-treasurer. Accordingly, no violation occurred that affected the outcome of the election.

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,

[REDACTED]

Sharon Hanley  
Chief, Division of Enforcement  
Office of Labor-Management Standards

cc: Mark McManus, General President  
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