



December 12, 2022

Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed on November 3, 2021 with the United States Department of Labor (Department) alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA or Act) occurred in connection with the election of officers of Transit Workers Union Local 100 (Local 100 or Union), conducted on December 8, 2021.

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

You alleged that the Union improperly applied a candidate qualification in the election, in violation of its constitution and bylaws. Pursuant to Section 401(e) of the LMRDA, every member in good standing is eligible to be a candidate and to hold office subject to reasonable qualifications uniformly imposed. 29 U.S.C. § 481(e). Section 401(e) also requires a union to conduct elections of officers in accordance with the union's constitution and bylaws. *Id.* The Department generally gives deference to a union's consistent interpretation of its constitution and bylaws, unless the interpretation is clearly unreasonable. 29 C.F.R. § 452.3.

Article XV, Section 3, of the TWU Constitution states: "No member shall be eligible for nomination or election to any office unless he/she shall have been in continuous good standing in his/her Local Union for a period of twelve (12) months immediately preceding nomination." Article XIII, Section 3, provides that dues are due on the first working day of each calendar month and members who fail to pay dues "on or before the fifteenth of each month shall be in bad standing." The Union consistently interpreted this provision to mean that dues that accrue on the first day of the month must be paid by the fifteenth day of the month. The Union also consistently interpreted its constitution to conclude that dues checkoff is not available to those who are not receiving wages. Therefore, those individuals must

pay dues directly to the Union unless they have followed the Union's exoneration process. Article XVII, Section 4(a), states: "Any member who is prevented by illness, injury, or layoff from earning any wages in a calendar month shall be excused from paying dues for such month and such nonpayment shall not affect his/her good standing." It also provides that, to be excused, members must "file with his/her Local Financial Secretary-Treasurer a request for exoneration on the official form supplied by the International Secretary-Treasurer." Although you contended that the Union instituted the exoneration deadline for the first time retroactively through the 2021 Election Rules, a letter dated July 12, 2012, from then-International President [REDACTED] to local presidents and secretary-treasurers delineated that exonerations forms "must be filled out and filed by the member with his/her Local Financial Secretary-Treasurer prior to the time a dues payment is due (the 15th of any given month)." Although timely application for exonerations may prevent a member from falling out of good standing, the Union did not permit exonerations applications that were submitted after a member fell into bad standing to cure that past lapse into bad standing. Rule I of Local 100's 2021 Election Rules stated that "to be eligible for nomination, a member must be in continuous good standing in Local 100 since September 20, 2020."

Specifically, you alleged that the Union improperly disqualified candidates such as [REDACTED] from running for office under the continuous good standing requirement. The Union interprets Article XVII, Section 4(a), to provide for dues exonerations only in cases where a member has no earnings due to illness, injury, or layoff, that is, exonerations are not available to a member who has no earnings due to other reasons such as being disciplined. If a member on dues checkoff has no earnings in a month, the member must either pay dues for that month directly to the Union or request exonerations before the fifteenth of the month to maintain good standing. The Department's investigation revealed that the Union consistently applied its exonerations provision to excuse members from paying dues, not to excuse late payment as a method of restoring a member's continuous good standing and candidate eligibility. The Department accepts the Union's interpretation of its candidate qualification bylaws because it is not clearly unreasonable.

The Department's investigation disclosed that four candidates were properly disqualified pursuant to the Union's interpretation of its continuous good standing bylaws. The Union checked all candidates' continuous good standing with dues records from August 2020 to August 2021. The Department's investigation revealed that [REDACTED] had insufficient earnings from which to deduct dues for seventeen pay periods of the 12-month period for candidate eligibility. Specifically, [REDACTED] missed dues payments to the Union every month from August 2020 to February 2021 and was in bad standing during that period. While [REDACTED] made two dues payments in May and June 2021 and paid the remaining balance of his

outstanding dues in August 2021, these payments did not cure his multiple breaks in good standing because they were not paid before the fifteenth of the month that they were due. Thus, the Union properly disqualified [REDACTED] candidacy in July 2021 because his exoneration request could not have cured his past lapses into bad standing even if granted.

[REDACTED] did not work between August 2019 and December 2020 due to injury. [REDACTED] did not have dues deducted for six pay periods during the eligibility period, and he did not pay outstanding dues before the nominations in September 2021. He was thus in bad standing at the time of nominations. Although [REDACTED] returned to work in December 2020, no evidence was found indicated that he requested exonerated before March of 2021, well past his lapse into bad standing. Accordingly, the Union properly disqualified [REDACTED].

Because [REDACTED] was suspended from January 2, 2021, through May 8, 2021, he had no earnings for nine pay periods from which dues could be deducted. [REDACTED] had already fallen into bad standing before he paid his dues balance on June 29, 2021. Although you requested exonerated in July 2021, exonerated of dues payments is not available to members on disciplinary suspensions. Because Article XVII, Section 4(a), of the constitution only provides exonerated for members on sick leave or layoff, t. he Union properly disqualified [REDACTED] candidacy.

[REDACTED] had insufficient earnings from which to deduct her dues in February 2021 and pay her outstanding dues on April 28, 2021, after she had already fallen into bad standing. Further, [REDACTED] did not submit an official exonerated request form. The Union properly disqualified [REDACTED] for lack of continuous good standing.

Because the disqualified candidates did not have proper or timely requests for dues exonerations, they were properly ruled ineligible for candidacy due to their failure to meet the continuous good standing requirement. The investigation revealed no evidence that the Union failed to uniformly apply its candidate qualification bylaws such as granting dues exonerated to candidates who did not qualify for them or permitting candidates to run who did not meet the continuous good standing requirement. To assess whether the Union consistently interpreted Article XIII, Section 3, the Department reviewed exonerated requests from 2021 that were made by TWU Local 100 members who were not candidates in the December 2021 elections. The Union similarly denied dues exonerated requests from four non-candidate members. There was no violation of the Act.

In sum, as a result of the investigation, the Department has concluded that there was no violation of the Act that may have affected the outcome of the election in

connection with your allegations. As to allegations in your complaints to the Department not addressed in this Statement of Reasons, those issues were not considered because the allegations, even if true, did not apply to positions covered by the Act. Accordingly, I have closed the file on this matter.

Sincerely,



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Chief, Division of Enforcement

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