



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

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 exoneration 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 exoneration in July 2021, exoneration of dues payments is not available to members on disciplinary suspensions. Because Article XVII, Section 4(a), of the constitution only provides exoneration for members on sick leave or layoff, t. he Union properly disqualified [REDACTED] candidacy.

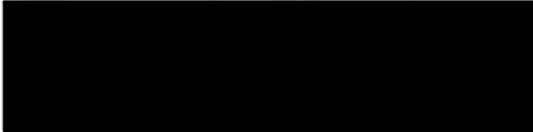
[REDACTED] had insufficient earnings from which to deduct her dues in February 2021 and pay her outstanding dues on April 28, 2021, after she had already fallen into bad standing. Further, [REDACTED] did not submit an official exoneration request form. The Union properly disqualified [REDACTED] for lack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



Tracy L. Shanker  
Chief, Division of Enforcement

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