



August 22, 2011

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Dear //////////////////////////////////:

This Statement of Reasons is in response to your April 7, 2011 complaint filed with the United States Department of Labor alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA), 29 U.S.C. §§ 481 - 484, occurred in connection with the election of officers of the Marine Engineers Beneficial Association (MEBA), District 1 conducted on December 6, 2010.

You alleged that candidates for the "MEBA United" slate sent campaign emails to members' employer sponsored e-mail addresses while on employer time in violation of the LMRDA's prohibition on the use of employer funds to promote candidacy. See 29 U.S.C. 481(g). You also alleged that this practice resulted in disparate candidate treatment because the Union's attorney had forbidden the practice, but the "MEBA United" slate ignored the instruction while other candidates did not.

Section 402 of the LMRDA requires that a member must have "exhausted the remedies available under the constitution and bylaws" of the union in order to file a complaint with the Secretary of Labor. You protested the election to the Union on December 27, 2010. By letter dated March 2, 2011 and mailed on March 3, 2011, your protest was denied. Under Article V, Section 1(c) of the Union's Constitution, the Union requires that an appeal of an election complaint decision be filed within 20 days after the date in which the District Executive Committee (DEC) decision is mailed to the challenging member. The Union determined that you did not properly exhaust your internal appeals because you failed to appeal the decision of the DEC within the 20-day timeframe. You state that you did not appeal the decision because you never received a copy of the decision letter. The investigation established that a copy of the DEC decision was mailed to your home address and that of eight other members protesting the election on March 3, 2011. Under the union's rules you had until March 23, 2011 to appeal the decision. The investigation established that the Union's General Counsel, who stated to the Department that he personally mailed the decision packet to your home address, had retained and produced a copy of the mailing receipt. The

investigation further established that the decision was sent to the correct address. Further, the decision packet was not returned to the Union as undeliverable. The eight other protestors all received the decision. You were in fact required to work away from your home for an extended period for work purposes and thus were without access to your mail until March 18, 2011. However, upon your return you still had time to file an appeal within the requisite deadline. You gave conflicting statements to the Department concerning whether you had learned of the DEC's decision from another member of your slate prior to the Union's deadline. Whether you learned of the DEC's decision from another source or received it in the mail, you had an obligation to meet the internal deadline set by the Union to file your appeal. You failed to file an appeal until April 8, 2011. Therefore, your allegations were not timely protested to the Union and are not properly before the Department. 29 C.F.R. § 452.135.

For the reasons set forth above, it is concluded that your complaint is not properly before the Department. Accordingly, the office has closed the file on this matter.

Sincerely,

Patricia Fox  
Chief, Division of Enforcement

cc: MEBA, District 1  
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Beverly Dankowitz, Acting Associate Solicitor  
Civil Rights and Labor-Management Division