



June 6, 2011

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to your November 8, 2010 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 June 12, 2010 election of union officers held by Local Union 429 of the International Brotherhood of Electrical Workers AFL-CIO.

The Department of Labor conducted an investigation of each of your allegations. As a result of the investigation, the Department has concluded that no violation of the LMRDA occurred that could have affected the outcome of the election.

You alleged that the prepaid ballot return envelopes provided to the members by Local 429 had insufficient postage, which may have prevented some of the voted ballots from being delivered to the union and counted. Section 401(c) of the LMRDA provides that unions must provide adequate safeguards to ensure a fair election.

The Department's investigation found that the election judge, [REDACTED] was notified of the insufficient postage and contacted the U.S. Postal Service, which informed him that their policy was to deliver the ballots to Local 429's post office box and then charge the union for any insufficient postage. The investigation revealed that Local 429 was charged \$148.72 for insufficient postage on 326 ballot return envelopes that were delivered. There were nine ballots delivered after the deadline, but there was no indication that their delivery had been delayed due to insufficient postage. The Department's investigation found no evidence that members did not vote or that ballots were not received and counted due to the insufficient prepaid postage. Providing return envelopes with insufficient postage was a violation of Local 429's duty to provide adequate safeguards to ensure a fair election. However, Section 402(c) of the

LMRDA, 29 U.S.C. § 481(c), provides that an election will not be set aside unless a violation may have affected the outcome of the election. Here, the violation had no effect on the outcome of the election.

You alleged that ballots were voided because they were not returned in secret ballot envelopes due to the small size of the envelopes. Article 3, Section 4(g) of Local 429's bylaws requires the use of secret ballot envelopes. The instructions mailed with each ballot clearly stated that the ballot must be placed in the secret ballot envelope and that a failure to do so would cause the ballot to be voided.

The investigation revealed that a total of 15 ballots were voided for not being returned in the secret ballot envelopes and 2 ballots were voided for being cut. The Department interviewed several members whose ballots were disqualified because they were not in the secret ballot envelopes. None of the members interviewed recalled any difficulty trying to fit their ballots in the secret ballot envelopes. The Department's investigation found no evidence that members were deterred from voting due to difficulty fitting the ballot in the secret ballot envelope. There was no violation of the LMRDA.

You alleged that the incumbent business manager used the union postage meter to mail campaign material. Section 401(g) of the LMRDA prohibits the use of union or employer funds to promote the candidacy of any person.

The investigation revealed that Local 429 informed all candidates that they would be allowed to use the meter and reimburse the union for postage. Only one candidate used the postage meter to send a campaign mailing, and he reimbursed Local 429 for all postage. No candidate was denied the opportunity to use the meter. No union funds or equipment were used to promote the candidacy of any person, and all candidates received the same privileges concerning use of the meter. Therefore, there was no violation of the LMRDA.

You alleged that Local 429's election judge printed extra ballots and could not account for all the ballots. There is no requirement that a particular number of ballots be printed and, during its investigation, the Department accounted for all the ballots. There was no violation of the LMRDA.

You also alleged that candidates were not allowed to observe the tally and that you were unable to have enough observers to effectively observe the ballot tally. You further alleged that the methods used to tally the ballots were inaccurate and that candidates were not notified nor given the opportunity to have observers at recounts.

Section 401(c) of the LMRDA requires adequate safeguards to ensure fair elections and provides that candidates have the right to have an observer at the polls and at the counting of the ballots. Article 3, Section 4(l) of Local 429's bylaws provides that "[a]ny candidate for office may be present or have an IBEW member as an observer present at the counting of the ballots." The election judge violated Local 429's bylaws when he prohibited candidates from observing the ballot tally. This violation of Local 429's bylaws constitutes a violation of Section 401(e) of the LMRDA.

Additionally, a few minutes before the ballot tally started, you were informed that ballots would be counted at three tables instead of two tables. Although the election judge might have allowed you to have more than one observer at the tally, you stated that you could not find more observers at the last minute.

During its investigation, the Department interviewed several of the observers present at the tally who said it was difficult to follow the counting at three tables simultaneously. This failure to provide observers with a satisfactory view of the ballot counting was a violation of Section 401(c) of the LMRDA.

Your final allegations were that Local 429 used an inadequate method for counting the ballots and failed to notify you and allow observers at a recount (of the tally sheets, not the actual ballots). Local 429's recount of its tally sheets resulted in a different candidate being declared the winner of the sixth executive board position than was previously announced. The inaccurate adding of the tally sheets and failure to allow observers at the recount of the tally sheets were violations of Sections 401(c) and (e) of the LMRDA.

However, none of the violations relating to observers or the adding of the tally sheets had an effect on the outcome of the election. Local 429's failure to properly count the ballots was remedied by its subsequent recount (adding) of the tally sheets and declaring the election of the correct candidates. The violations concerning observers had no effect on the outcome of the election because the Department recounted all the ballots and confirmed that Local 429 named the correct candidates elected for each office.

During the course of its investigation, the Department discovered that Local 429 required observers to sign-in, but did not preserve the sign-in sheet. Section 401(e) of the LMRDA requires that all election records be preserved for one year. Although a sign-in sheet is not required by the LMRDA, once such a record is created the union must maintain it with the rest of its election records. Local 429's failure to maintain the

observer sign-in sheet is a violation of Section 401(e) of the LMRDA, but the violation had no affect on the outcome of the election.

For the reasons set forth above, the Department of Labor has concluded that no violation of the LMRDA occurred that may have affected the outcome of the election. Accordingly, the office has closed the file on this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

cc: Edwin D. Hill, International President
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IBEW Local 429
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Beverly Dankowitz, Acting Associate Solicitor



June 6, 2011

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to your November 12, 2010 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 June 12, 2010 election of union officers held by Local Union 429 of the International Brotherhood of Electrical Workers AFL-CIO.

The Department of Labor conducted an investigation of each of your allegations. As a result of the investigation, the Department has concluded that no violation of the LMRDA occurred that could have affected the outcome of the June 12, 2010 election.

You alleged that the prepaid ballot return envelopes provided to the members by Local 429 had insufficient postage, which may have prevented some of the voted ballots from being delivered to the union and counted. Section 401(c) of the LMRDA provides that unions must provide adequate safeguards to ensure a fair election.

The Department's investigation found that the election judge, [REDACTED] was notified of the insufficient postage and contacted the U.S. Postal Service, which informed him that their policy was to deliver the ballots to Local 429's post office box and then charge the union for any insufficient postage. The investigation revealed that Local 429 was charged \$148.72 for insufficient postage on 326 ballot return envelopes that were delivered. There were nine ballots delivered after the deadline, but there was no indication that their delivery had been delayed due to insufficient postage. The Department's investigation found no evidence that members did not vote or that ballots were not received and counted due to the insufficient prepaid postage. Providing return envelopes with insufficient postage was a violation of Local 429's duty to provide adequate safeguards to ensure a fair election. However, Section 402(c) of the

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The investigation revealed that Local 429 informed all candidates that they would be allowed to use the meter and reimburse the union for postage. Only one candidate used the postage meter to send a campaign mailing, and he reimbursed Local 429 for all postage. No candidate was denied the opportunity to use the meter. No union funds or equipment were used to promote the candidacy of any person, and all candidates received the same privileges concerning use of the meter. Therefore, there was no violation of the LMRDA.

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Section 401(c) of the LMRDA requires adequate safeguards to ensure fair elections and provides that candidates have the right to have an observer at the polls and at the counting of the ballots. Article 3, Section 4(l) of Local 429's bylaws provides that "[a]ny candidate for office may be present or have an IBEW member as an observer present at the counting of the ballots." The election judge violated Local 429's bylaws when he prohibited candidates from observing the ballot tally. This violation of Local 429's bylaws constitutes a violation of Section 401(e) of the LMRDA.

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However, none of the violations relating to observers or the adding of the tally sheets had an effect on the outcome of the election. Local 429's failure to properly count the ballots was remedied by its subsequent recount (adding) of the tally sheets and declaring the election of the correct candidates. The violations concerning observers had no effect on the outcome of the election because the Department recounted all of the ballots and confirmed that Local 429 named the correct candidates elected for each office.

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For the reasons set forth above, the Department of Labor has concluded that no violation of the LMRDA occurred that may have affected the outcome of the election. Accordingly, the office has closed the file on this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

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