



August 12, 2015

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is provided in response to the complaint you filed with the Department of Labor on December 23, 2014, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the election of union officers for the International Longshoremen's Association, Local 1291, conducted on December 12, 2013.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded, with respect to each specific allegation, that there was no violation of the LMRDA that may have affected the outcome of the election. Each allegation is addressed in turn.

First, you alleged that the local improperly permitted a candidate to run under the nickname [REDACTED] on the ballot with no other identification. The investigation confirmed that a candidate was permitted to appear on the ballot under the nickname [REDACTED], but no rules were violated. Section 401(c) of the LMRDA requires a union to provide "[a]dequate safeguards to insure a fair election" and section 401(e) of the LMRDA requires that elections be conducted in accordance with the bylaws and constitution of the union. Neither the international constitution nor the local bylaws or election rules address use of nicknames on a ballot. Under Department regulations, a union may permit a candidate to use a nickname on a ballot so long as all candidates have the option of appearing under a nickname if desired. See 29 CFR § 452.110. The investigation did not reveal any evidence that voters were confused by the candidate's nickname, nor was there any evidence that other candidates were not permitted to appear on the ballot under the name they desired. Therefore, there was no violation of the LMRDA.

Second, you alleged that the local improperly amended its constitution and bylaws in order to reduce the number of business agents employed by the union. Specifically, you allege that you received the third highest number of votes for the position of business agent and that if the bylaws had not been amended to reduce the number of

business agents from three to two, you would have been elected. As noted above, section 401(e) of the LMRDA requires a union to conduct its election of officers in accordance with the constitution and bylaws of the organization insofar as they are not inconsistent with the provisions of Title IV of the LMRDA. So long as the union followed its constitution to amend its bylaws to reduce the number of business agents, there was no violation of the LMRDA. In October 2013, the local notified membership of a special meeting to amend the bylaws. The special meeting was held on November 21, 2013. Members at the meeting were given copies of the proposed amendment to reduce the number of business agents. The amendment passed by a vote of 61 to 17. The local approved the change in September 2014. The process to amend the bylaws was properly followed. Accordingly, there was no violation of the LMRDA when the union changed its bylaws to reduce the number of elected business agents.

Third, you alleged that the local failed to maintain a sign-in sheet on the day of the election and that the local cannot verify who voted in the election or whether a person voted more than once. Section 401(e) of the LMRDA provides that in any secret election, "[e]ach member in good standing shall be entitled to one vote." During its investigation, the Department determined that the local placed a stamp next to the name of each member who checked in to vote in the election. This system had been used by the local in previous elections. The Department's investigation revealed 255 total voter names with stamps next to them, but the voting machines listed only 253 total voters. The Department was not able to review the voting cartridges because the cartridges were replaced by the City of Philadelphia, which operated the voting machines. ILA election committee member [REDACTED] explained that it is possible one or two members checked in to vote in the election and had their name stamped, but did not actually vote. There was no evidence to suggest that the two vote discrepancy resulted from failure to properly safeguard the integrity of the polling place or election documents. Therefore, with respect to this allegation, there was no violation of the LMRDA.

Fourth, you alleged that ineligible retired members were permitted to vote. The local's bylaws do not permit retired members to vote in officer elections. The union conceded that it did erroneously permit one retired member to vote in the December 2013 election. The Department compared the local's list of retired members with the voter eligibility list for the years 2011, 2012, and 2013, and determined that no other retired members voted in the challenged election. Section 402(c) of the LMRDA provides that an election will only be rerun where a violation may have affected the outcome of the election. In this election, the successful candidate won by four votes. Therefore with respect to this allegation, the violation of section 401(e) did not affect the outcome of the race.

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

Sincerely,

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Acting Chief, Division of Enforcement

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