



June 24, 2015

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons responds to your complaint filed with the U.S. Department of Labor on January 14, 2015, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) occurred in connection with the election of officers of the International Association of Machinists and Aerospace Workers, District Lodge 54 conducted on August 19, 2014.

The Department investigated your allegations. As a result of the investigation, the Department has concluded that, with respect to each of your allegations, no violation occurred which may have affected the outcome of the election.

First, you alleged that delegates to the August 19, 2014 election were not properly elected and therefore were not eligible to vote in the District Lodge 54 officer election. Specifically, you alleged that some delegates were appointed, rather than elected by secret ballot. You also alleged that officers who served as delegates by virtue of office were not properly elected delegates because members of the local lodges were not aware that when they voted for their local officers, those officers would, by virtue of their positions, also serve as delegates to the District Lodge 54 officer election.

The election of delegates must conform to the LMRDA where delegates are to nominate or elect officers of a national or international labor organization, or an intermediate body. 29 U.S.C. §§ 481(a), (d). In such cases, delegates must be elected by secret ballot among the members in good standing of the labor organization they represent. 29 C.F.R. § 452.22. Officers of labor organizations who have been elected by secret ballot may, by virtue of their election to office, serve as delegates to conventions at which officers will be elected, if the labor organization's constitution and bylaws so provide. Officers who have been appointed to serve unexpired terms, however, may not serve as ex officio delegates in these situations. 29 C.F.R. § 452.120.

The August 19, 2014 election was for officers of an intermediate body. Because the election for those intermediate officers was not conducted by secret ballot, the delegates that cast votes for those officers were required to have been elected by secret ballot. The investigation revealed that, among the 70 delegates representing the local lodges that comprise District Lodge 54, a total of 12 delegates had been appointed by their respective local lodge president, rather than elected by secret ballot. Of these 12 delegates, nine delegates cast a vote in the August 19, 2014 election, in violation of the LMRDA and 29 C.F.R. § 452.22.

The investigation revealed no violation with respect to those who were delegates by virtue of office. The investigation revealed that Article III, Section 2 of the District Lodge 54 bylaws provides that each affiliated local lodge with four or fewer delegates will be represented by the president, secretary treasurer, recording secretary, and vice president of the local, in that order. While it is advisable for labor organizations to include a statement on the ballots indicating that officers will also serve as delegates, *see* 29 C.F.R. § 452.120, Article III, Section 2 of the bylaws authorizes local lodge officers to serve as ex officio delegates.

Section 402(c) of the LMRDA provides that an election may only be overturned where a violation of the law may have affected the outcome of an election. The margin of victory in the race for president/ directing business representative, which was the only contested race, was 50 votes. With regard to those delegates who had been appointed, only nine cast a vote in the election. Although those nine delegates were not elected by secret ballot, those nine votes were not sufficient to affect the outcome of the election. Furthermore, to the extent that any local lodge voters were not on notice that they were voting for officers who would also serve as ex officio delegates, the investigation similarly did not reveal sufficient evidence that any lack of notice would have had an effect on the outcome of the election.

Second, you alleged that District Lodge 54 failed to properly count the ballots cast in the officer election. Specifically, you claimed that District Lodge 54 violated Article III, Sec. 8 of its bylaws by allowing delegates to cast proxy votes for absent delegates from the same local lodge, even if more than one delegate was present. You further alleged that the vote cast by Secretary-Treasurer and Business Representative Jerry Espy should not have been counted because the district lodge secretary-treasurer should not have a vote, pursuant to Article VII, Section 4 of the District Lodge 54 bylaws.

As a labor organization that chooses its officers by a delegate convention, District Lodge 54 is required by Section 401(f) to conduct the convention in accordance with its constitution and bylaws insofar as they are not inconsistent with the provisions of the LMRDA. *See* 29 C.F.R. § 452.2. Article III, Section 8 of the District Lodge 54 bylaws

states: "Each delegate is entitled to one (1) vote except in the absence of other delegates to which the local lodge shall be entitled; the delegate present is authorized to cast the entire vote." District Lodge 54 has interpreted this to mean that the highest-ranking delegate present from a local lodge is entitled to cast a vote for any delegate from his local lodge not present, even if more than one delegate is present. The Department accepts the interpretation consistently placed on a union constitution by the responsible union official or body unless the interpretation is clearly unreasonable. The interpretation here is not clearly unreasonable. This interpretation is reflected in the meeting minutes from the July 16, 2014 Executive Board meeting and in the *IAMAW DL54 Officer Election Process* document.

The investigation confirmed that this procedure was followed during the August 19, 2014 election. Accordingly, District Lodge 54 conducted the election in accordance with its bylaws and, as such, there was no violation of the LMRDA.

Article VII, Section 4 of the District Lodge 54 bylaws states that district business representatives shall have a voice but no vote in the meetings of the district lodge. This provision, however, does not prohibit district business representatives who are also delegates from voting in officer elections. As Espy was a duly elected delegate of Local Lodge 1297 he was therefore entitled to vote. Again, this did not violate the District Lodge 54 bylaws or the LMRDA.

Third, you alleged that District Lodge 54 failed to abide by the bylaws, and failed to employ adequate safeguards to ensure a fair election, when it moved the date of its officer election from October 2014 to August 19, 2014. You further claimed that this violation denied you an ability to campaign in person at the local lodge meetings that would have been held in September and October.

Article V, Section 2 of the District Lodge 54 bylaws states that district officers shall be elected at the regular scheduled meeting of the District Lodge in October 2010 and every four years thereafter.

The investigation established that the change in election date for the August 19, 2014 election was not a change to the bylaws and that District Lodge 54 sought approval from the Grand Lodge to waive the regular election date. A special meeting of all local lodge presidents was held on July 16, 2014, where the local presidents approved a motion to move the election to August due to conflicts with Congressional elections in October. District Lodge 54 received dispensation from the General Vice President of the Eastern Territory on July 17, 2014, to deviate from the October timeframe listed in the bylaws. Notice of the election was mailed to all delegates on July 17, 2014, and was also sent by email on July 18, 2014. This notice gave members more than 30 days' notice.

This change in the date affected all candidates equally. Accordingly, there was no violation.

Fourth, you alleged that District Lodge 54 staff and local lodge presidents campaigned on behalf of President Directing Business Representative T. Dean Wright Jr. after the July 16, 2014 meeting and that district lodge business representatives used union cars to drive to local lodge meetings where they collected endorsement signatures for Wright. You also claimed that Wright improperly used union funds to send out his campaign mailings.

Section 401(g) of the LMRDA prohibits the use of labor organization funds to promote candidacy. Accordingly, officers and employees of a union may not campaign on time that is paid for by the union, and officers and employees may not use union funds to assist them in campaigning. Campaigning that is incidental to legitimate union business does not violate the LMRDA. 29 C.F.R. §§ 452.76.

The investigation established that any campaigning that occurred at the July 16, 2014 meeting only took place after the meeting and was incidental. Wright acknowledged that people approached him after the meeting to express support, but stated that no campaigning occurred during the meeting. The investigation further established that business representatives attended local lodge meetings as part of their official duties, and were allowed to use union vehicles for this purpose, but that the endorsement signatures were collected only after these meetings. Business representatives were allowed to use union cars for personal use and had no set work hours. Accordingly, campaigning after meetings on personal time does not constitute a violation. Finally, Wright provided the Department with receipts showing that his campaign mailings were not paid for with union funds. As such, there was no violation.

For the reasons set forth above, it is 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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