



December 15, 2016

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your July 1, 2016 complaint filed with the U.S. Department of Labor alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the election of officers conducted by the International Brotherhood of Electrical Workers (IBEW), Local 725 on June 3, 2016.

The Department conducted an investigation of your allegation. As a result of the investigation, the Department has concluded, with respect to your allegation that no violation occurred which may have affected the outcome of the election. Following is an explanation for this conclusion.

You alleged that Local 725 violated its bylaws, the IBEW Constitution and the LMRDA when it did not install you in the Financial Secretary/Business Manager position after its June 3, 2016 election and instead conducted a run-off election on June 24, 2016. Section 401(e) of the LMRDA requires a labor organization to conduct its elections in accordance with its constitution and bylaws, so long as they are not inconsistent with the Act. Article XVI, Section 11 of the IBEW Constitution states, "All elections shall be decided for the candidate receiving the most votes, unless the local union bylaws provide otherwise." Here, the Local 725 Bylaws provide at Article III, Section 4(k) that in the event a candidate does not receive a majority of the votes cast for an office, a run-off election will be held between the two candidates receiving the highest number of votes.

The investigation revealed that after the ballots were cast, the tally indicated that you received 151 out of 301 votes for the Financial Secretary/Business Manager position. You argued that this constituted a majority of votes cast for the office, because it was more than half of the votes. You further asserted that this total entitled you to be installed in the office pursuant to the Local 725 Bylaws. Election Judge [REDACTED] determined, however, that your total of 151 votes was not a majority of the ballots cast for the Financial Secretary/Business Manager position, as Local 725 interpreted a

majority to consist of "50 percent plus one," and 50 percent plus 1 of 301 is 151.5. Pursuant to the Local 725 Bylaws, Election [REDACTED] ordered that a re-run election be conducted between you and [REDACTED], the candidate receiving the second highest votes in the June 3, 2016 election. The re-run election occurred on June 24, 2016, which resulted in [REDACTED] being elected to the Financial Secretary/Business Manager position.

A records review during the OLMS investigation revealed that one returned absentee ballot envelope was voided by the Election Committee because the back of the yellow pre-addressed envelope was not signed. Election [REDACTED]' May 16, 2016 letter to absentee voters instructed absentee voters to sign the back of the yellow pre-addressed envelope (provided by Local 725) when submitting their ballots and stated that a ballot would be void if the yellow envelope was not signed. The member in question completed the return address section on the front of the envelope with a printed name and address, but did not provide a signature. A review of the voter eligibility list confirmed that this member was otherwise eligible to vote. Election [REDACTED] told the investigator that Local 725 did not maintain member signatures and the election committee did not use signatures to verify members' voting eligibility.

The Department's regulations provide that, while a union may require members in a mail ballot election to sign the return envelope to determine eligibility, an otherwise valid ballot may not be voided simply because the member printed, rather than signed the return envelope, unless the union uses the signatures to determine voter eligibility. See 29 C.F.R. § 452.97. As the investigation revealed that the signatures on the return envelopes were not used to verify members' voting eligibility, the Department determined that this ballot, which included a vote for [REDACTED] in the disputed race, was improperly voided. When the Department included the improperly voided ballot in its recount, it determined that no candidate received a majority of votes, even if the "more than half" definition of majority you proposed had been used. You received 151 of 302 ballots cast, which constituted exactly half of the ballots cast for the office. Accordingly, as the run-off election was appropriately conducted pursuant to Local 725's Bylaws, we find that there was no violation of the LMRDA.

For the reasons set forth above, it is concluded that no violation of the LMRDA affecting the outcome of the election occurred. Accordingly, we have closed the file on this matter.

Sincerely,

[REDACTED]

Sharon Hanley
Chief, Division of Enforcement

cc: Lonnie R. Stephenson, International President
International Brotherhood of Electrical Workers
900 Seventh Street N.W.
Washington, DC 20001

Joe Kerr, Business Manager
IBEW Local 725
5675 East Hulman Drive
Terre Haute, IN 47803-9752

Beverly Dankowitz, Associate Solicitor for Civil Rights and Labor-Management

