



June 29, 2016



Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed on March 24, 2016, alleging that a violation of Title IV of the Labor Management Reporting and Disclosure Act of 1959 (LMRDA) occurred in connection with the American Federation of Musicians (AFM), Musicians Union of Las Vegas, Local 369 election held on December 19, 2015.

The Department of Labor conducted an investigation of your allegations. As a result of the investigation, the Department has concluded that, with respect to your specific allegations, no violation occurred.

You alleged that AFM Local 369 improperly disqualified you as a candidate for Local Union President. Section 401(e) of the LMRDA provides that "every member in good standing shall be eligible to be a candidate" for union office, subject to "reasonable qualifications uniformly imposed." It further requires that elections "be conducted in accordance with the constitution and bylaws" of the union, "insofar as they are not inconsistent with" the LMRDA.

AFM Bylaws, Article 5, Section 23, states that "[a]ll Local Officers must be nominated and elected in conformity with Local and AFM Bylaws and . . . in conformity with the [LMRDA]." According to AFM Local 369 Bylaws, Article 4(B), "to hold office a member must have been in continuous good standing of the Local for at least the preceding two years, and not have been convicted of violating the Bylaws and *Policies* of any Local or those of the AFM during those two years" (emphasis in original). Article 7(G) provides that a candidate is ineligible to hold office if he or she has "a conviction for violating the Local or AFM Bylaws [during the preceding] two years."

In this case, the investigation showed that you were charged in writing with violating the duty of fair representation, contained in AFM Bylaws Article 10, Section 1(4), in connection with the Circus Circus Collective Bargaining Agreement (the CBA). The

investigation further established that on July 27, 2015, the AFM International Executive Board (IEB) found you guilty of that charge as a result of your failure to conduct an appropriate membership ratification vote on the CBA. As a result, you were not eligible to run for the office of President in the December 19, 2015 election, pursuant to the Local's bylaws, which required that you have no conviction for violating the bylaws or policies in the preceding two years. Accordingly, there was no violation.

You also alleged that, after the AFM IEB found that you had violated AFM Bylaws, you were not given proper due process. Section 101(a)(5) of the LMRDA states that "[n]o member of any labor organization may be fined, suspended, expelled, or otherwise disciplined . . . unless such member has been (A) served with written specific charges; (B) given a reasonable time to prepare his defense; [and] (C) afforded a full and fair hearing." According to Article 11, Section 17 of the AFM Bylaws, "[a] member may request a personal hearing."

Here, the investigation revealed that the AFM IEB apprised you of the charge against you by letter dated March 4, 2015, which specified that you had 30 days to respond in writing to the charge. The investigation also revealed that this letter informed you of your right, pursuant to the AFM Bylaw provision at Article 11, Section 17, to request a hearing on this charge. Although you provided written responses to the charge as well as a written appeal of the AFM IEB's July 27, 2015 finding of guilt, none of these communications contained a request to exercise your right to a hearing. Because you made no request for a hearing, there was no need to provide you with any additional time to prepare your defense beyond the time allowed for submission of your written responses and appeal. Therefore, no violation occurred.

For the reasons set forth above, the Department has concluded that there was no violation of Title IV of the LMRDA. Therefore, I am closing the file regarding this matter.

Sincerely,

Sharon Hanley
Chief, Division of Enforcement

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