



May 2, 2017

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to the complaint that you filed with the U.S. Department of Labor on December 7, 2016, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the regularly scheduled election of officers conducted by the Operating Engineers Local No. 428 on August 15, 2016.

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

You alleged that incumbent business manager Michael Lee improperly used union resources to mail campaign literature in support of his candidacy. Section 401(g) of the LMRDA prohibits the use of union funds to promote the candidacy of any individual in an election. However, section 401(c) also requires unions to comply with a candidate's reasonable request to distribute campaign literature to the union membership at the candidate's expense and requires that all candidates be treated equally with regard to the expense of such mailings.

The investigation revealed that Local 428 adopted a resolution setting forth its procedures for distributing campaign mailings at a candidate's request. The resolution provides that each candidate shall promptly pay the actual cost to the union for handling and mailing campaign literature. Mr. Lee sent campaign mailings to the union membership on July 13, 2016 and July 26, 2016. He printed his flyers at an independent print shop and purchased mailing envelopes at commercial retailers, but used the union's postage meter. Local 428 Office Secretary Annette Mejia affixed the mailing labels and mailed the literature at the local post office. Records indicate that Mr. Lee paid the union in cash for the cost of the labels and postage, as well as Ms. Mejia's time on the day that the mailings were sent.

████ sent a campaign mailing on July 15, 2016. █████ printed █████ flyers at an independent print shop and elected to buy both mailing envelopes and stamps at a commercial retailer, although █████ were offered the opportunity to use the union's postage meter and declined. Ms. Mejia also helped █████ affix the mailing labels and mailed █████ literature from the local post office. █████ paid the union for the cost of the labels and Ms. Mejia's time on the day the mailings were sent.

The record reveals that both █████ and Mr. Lee immediately and fully reimbursed the union for expenses incurred in connection with █████ campaign mailings. Thus, neither █████ improperly used union resources. Further, the union's mailing procedures were applied to █████ equally. Accordingly, there was no violation of the LMRDA.

For the reasons stated herein, we have concluded that no violation of the LMRDA occurred which may have affected the outcome of the election. Accordingly, the office has closed the file on this matter.

Sincerely,

Sharon Hanley, Chief
Division of Enforcement

cc: James T. Callahan, General President
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