



May 22, 2017

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to the complaint that you filed with the United States Department of Labor (Department) on January 18, 2017. Your complaint alleged that a violation of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA or Act), occurred when the United Food and Commercial Workers, Local 648 (Local 648) ordered a rerun election of officers following its July 29, 2016 election.

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

You alleged that Local 648's decision to overturn the July 29, 2016 election of officers and order a new election for President and Vice President #14 was without merit and biased towards the incumbent President.

The standard applicable to the Secretary in deciding whether a new election is required, i.e., the finding of a violation that may have affected the outcome of the election, is not applicable to a union's decision to conduct a new election. The LMRDA envisions providing unions an opportunity to correct election problems and deficiencies before complaints are filed with the Secretary of Labor, thereby preserving a maximum amount of independence and encouraging responsible self-government. In furtherance of this legislative objective, the Secretary accords a degree of deference to decisions on internal union election protests providing for the conduct of a new election. The Department will not seek to reverse a union's remedial decision to hold a new election, unless it is apparent that the decision was based on the application of a rule that violates the LMRDA; the decision was made in bad faith, such as to afford losing candidates a second opportunity to win; or the decision is otherwise contrary to the principles of union democracy embodied in the statute and holding a new election is unreasonable.

The Department's investigation confirmed that Local 648 conducted its regularly scheduled election of officers on July 29, 2016. Following a protest and an internal union investigation by the General Election Committee Chairman, Local 648 ordered a rerun election for the offices of President and Vice President #14 after finding, among other reasons, that employer resources had been used to promote the candidacy of persons in the election. The union conducted the rerun election on November 4, 2016.

Section 401(g) prohibits the use of employer funds to promote the candidacy of any person in an election of union officers. Section 401(c) of the Act requires unions to provide adequate safeguards to insure a fair election. Thus, a labor organization's discretion regarding the conduct of an election is circumscribed by a general rule of fairness. 29 C.F.R. § 452.110(a). During the investigation, candidate [REDACTED] and a number of his supporters admitted to posting campaign flyers that supported the Members First slate on employers' property in violation of the election rules. Those admissions were consistent with the General Election Committee Chairman's investigation. Because the winning candidates for the offices of President and Vice President #14 benefited from the improper campaigning, Local 648's decision to hold a rerun election was not unreasonable.

Local 648's decision to overturn the election and order a new election was not based on the application of a rule that violated the LMRDA, made in bad faith, or contrary to the principles of union democracy embodied in the statute. In fact, violations of the election provision of the LMRDA occurred during the July 2016 election of Local 648 officers. Thus, ordering a rerun election did not violate the Act.

Accordingly, this office has closed the file on this matter.

Sincerely,

Sharon Hanley,  
Chief, Division of Enforcement

cc: Marc Perrone, International President  
United Food and Commercial Workers Union  
1775 K Street NW  
Washington, DC 20006

Dan Larson, President  
UFCW Local 648  
1980 Mission Street  
San Francisco, CA 94103

David A. Rosenfeld  
Weinberg, Roger, & Rosenfeld  
1001 Marina Village Parkway, Suite 200  
Alameda, CA 94501

Beverly Dankowitz, Associate Solicitor  
Civil and Labor-Management Division