



February 27, 2018



Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on September 28, 2017, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the election of union officers conducted by Local 1260, International Brotherhood of Electrical Workers (IBEW), on June 23, 2017.

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 LMRDA that may have affected the outcome of the election.

You first alleged that campaign materials were distributed during work hours on employer property in Guam. You further alleged that Local 1260 business manager/financial secretary (BM/FS) Russell Takemoto and senior assistant business manager Amy Ejercito campaigned while on a union-funded trip to Guam in May 2017, but did not attend the Unit 9 membership meeting. Section 401(g) of the LMRDA prohibits the use of union or employer funds to promote a candidate.

The investigation did not substantiate these allegations. The individual you identified as a witness to alleged campaigning at worksites on Guam did not respond to the Department's requests to participate in the investigation. Takemoto stated that he did not visit Guam in May 2017, though in April 2017, he did attend both a shop stewards' training and the Unit 9 nomination meeting in Guam. Takemoto's trip was paid for by the union. Takemoto denied distributing campaign materials at work facilities or engaging in any campaigning while in Guam. The investigation established that Ejercito traveled to Guam for a contract negotiation with employer DZSP 21 in May 2017. Ejercito's trip was paid for by the union. Ejercito stated that DZSP 21 was the only employer she visited while in Guam, and she also denied campaigning in any way while in Guam. Ejercito further stated that she returned from Guam before the Unit 9 membership meeting to attend her own units' membership meetings. There was no violation.

You also alleged that incumbent officers had a campaign advantage because of their ability to access worksites. As noted above, section 401(g) of the LMRDA prohibits the use of employer funds to promote the candidacy of any person.

The investigation did not substantiate your allegation. Takemoto and Ejercito stated that incumbents do not have access to all work facilities; some employers require sponsorships. During the investigation, you alleged that Hawaiian Electric Company (HECO) did not allow one of your supporters to hold a campaign meeting for you after work near a warehouse at HECO. The investigation confirmed that it was HECO policy not to permit campaign meetings to occur on its property. In addition, employers Maui Electric Company (MECO) and Hawaiian Electric Light Company (HELCO) were also contacted as part of the investigation. Officials at HECO, MECO, and HELCO all stated that they did not witness, hear about, or receive complaints about campaigning at their facilities. The officials further stated that any campaign literature found on company property, including break rooms, would be discarded.

There was no evidence that any other candidates were permitted to hold campaign meetings at any work facilities. Moreover, the union's election rules, sent to all candidates by memorandum dated April 24, 2017, stated that "[c]ampaigning of any kind on an employer's time and/or property is strictly prohibited." There was no violation.

You also alleged that the incumbent officers did not distribute their campaign literature to all members, which you stated was unfair to smaller units. You alleged that you were not made aware of the option to distribute campaign literature to only a portion of the membership. Section 401(c) of the LMRDA requires unions to comply with all reasonable requests of any candidate to distribute campaign literature at the candidate's expense, and section 401(c) prohibits disparate treatment of candidates for union office.

The investigation disclosed no violation. The investigation confirmed that the incumbent officers mailed their campaign literature to only a portion of the membership, but the LMRDA does not prohibit candidates from doing so. The incumbent officers were the only candidates to request distribution of campaign literature. You stated during the investigation that you did not think you would have requested any campaign literature distribution even if you had known you had the option to mail campaign literature only to certain members. There was no violation.

You next alleged that the requirement that candidates inform the local union office at least three business days in advance to inspect the membership list was a new restriction applied only to insurgent BM/FS candidates, while the incumbent BM/FS was able to inspect the list at any time. Section 401(c) of the LMRDA provides that every bona fide candidate shall have the right, once within thirty days prior to the election, to inspect a list containing the names and last known addresses of all members of the organization. As noted above, section 401(c) also prohibits disparate candidate treatment, including discrimination in favor of or against any candidate with respect to the use of membership lists.

The investigation did not substantiate your allegation. The investigation disclosed that the requirement of three days' notice for inspection of the membership list was imposed as a courtesy to office staff and that it had been in place in prior elections. During the investigation,

you acknowledged that you did not try to inspect the membership list. The investigation established that insurgent candidates [REDACTED] and [REDACTED] were the only candidates who inspected the membership list, and they were permitted to do so the day after requesting to do so. There was no evidence that any candidate who wished to inspect the membership list was denied the opportunity to do so. Furthermore, election judge [REDACTED] confirmed that, if the incumbent BM/FS had wanted to inspect the membership list, he also would have been required to give notice. There was no violation.

You also alleged that the union gave candidates insufficient notice of the preparing and mailing of the ballots. You alleged that the union changed printers at the last minute without explanation and that candidates did not have sufficient notice to arrange for observation of the ballot preparation and mailing. The LMRDA imposes no affirmative duty on the union to give notice of the ballot printing and mailing. Under section 401(c) of the LMRDA, candidates, upon request, must be permitted to have an observer present at the preparation and mailing of the ballots, among other steps of the process. See 29 C.F.R. § 452.107. Article III section 7(e) of Local 1260's bylaws allows candidates to designate other IBEW members as observers.

The investigation did not reveal any evidence that any valid request to observe the printing or mailing of the ballots was made and denied. During the investigation, you acknowledged that you did not make any requests to be or have an observer. You alleged that the union denied candidate [REDACTED] request to have [REDACTED] observe on his behalf. However, as mentioned above, an observer must be an IBEW member, and the investigation disclosed that the request was denied because [REDACTED] is not an IBEW member. The investigation also established that Service Printers Hawaii, the contracted printing service, outsourced the assembly and mailing of the ballot packages to Edward Enterprises because it was a large order and Edward Enterprises has a machine inserter to stuff all the envelopes for mailing. There was no violation.

Finally, you raised an allegation in your complaint that had not been raised in your protest to the union. Section 402(a) of the LMRDA requires that a member exhaust the remedies available to him or her under the union's constitution and bylaws before filing a complaint with the Secretary of Labor. This allegation was not properly exhausted and was not investigated by the Department.

For the reasons set forth above, the Department of Labor concludes that there was no violation of the LMRDA that may have affected the outcome of the election. Accordingly, I have closed the file on this matter.

Sincerely,

[REDACTED]

Sharon Hanley  
Chief, Division of Enforcement

cc: Lonnie R. Stephenson, International President  
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bcc: LADO DIS File: 520-6012101(01); 520-6012121(01)  
OLMS/DOE//FPB N-5119//

<b>Initials</b>	AJD			
<b>Date</b>	2/21/18			
<b>Last Name</b>	Dunn	HANLEY		
<b>Title</b>	DOE Inv.	DOE Chief		

Case String: 520601210101; 520601212101 LM: 010417013873 DOE Number: 9110;  
9111