



March 15, 2019



Dear 

This Statement of Reasons is in response to your complaint, received by the United States Department of Labor (Department) on May 17, 2018. The complaint alleged that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), occurred in connection with the May 31, 2018 officer election conducted by the Laborers' International Union of North America Local 872 (Local 872).

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded, with respect to each of your allegations, that there were no violations of the LMRDA that may have affected the outcome of the election.

Section 401(e) of the LMRDA requires that unions provide a reasonable opportunity for the nomination of candidates. 29 U.S.C. § 481(e). Article VI, Section 1(f) of the Uniform Local Union Constitution (ULUC) provides that members must be nominated by two members in good standing, shall be present at the time of nomination, and shall indicate immediately upon nomination whether the nomination is accepted or declined. The nomination notice sent to members on March 31, 2018 included these ULUC requirements.

Additionally, Section 401(e) of the LMRDA provides that every member in good standing shall be eligible to be a candidate and to hold office subject to reasonable qualifications uniformly imposed. To be a candidate in the election, Article V, Section 4 of the ULUC requires members be working at the calling during the entire year immediately prior to nomination. "Working at the calling" includes, among other things, periods of unemployment where the member is available for and continuously and actively seeking employment at the calling in full compliance with the rules of the union's referral service or hiring hall. ULUC, Art. V, § 4. Local 872's hiring hall rules specify that members must confirm that they remain registered on the list by contacting the hiring hall within the first three business days of each three month period; this process is known as "roll call." Local 872 Job Referral Rules, Rule 2(E) (Aug. 5, 2002).

Failure to properly contact the hiring hall at the beginning of each month will result in the member's name being removed from the list. Local 872 Job Referral Rules, Rule 2(F).

Section 401(e) of the LMRDA further provides that not less than fifteen days prior to the election, notice thereof shall be mailed to each member at his last known home address. The Department's regulations require that the election notice specify the date, time, and place of the election as well as the offices to be filled. Consistent with these requirements, Article VI, Section 2(j) of the ULUC provides that not less than fifteen days prior to the date of the election, the Secretary-Treasurer will mail written notice to the last known address of each member in good standing informing the member of the date, place, and time of the election and the list of offices or elective positions to be filled.

You alleged that Local 872 violated Section 401(e) when the Las Vegas Metropolitan Police Department (LVMPD) improperly detained you and prevented you from attending the nomination meeting on the morning of April 21, 2018. The investigation revealed that the local had applied for but had not yet been granted a temporary protective order against you at the time of the nomination meeting. The Department, however, does not opine on the propriety of your detention because its investigation established that your absence from the nomination meeting did not affect the outcome of the election.

Even if you had been nominated and were able to accept your nomination, the Department's investigation revealed that you were not qualified to be a candidate. In the year preceding the nomination meeting, you did not actively seek employment at the calling in full compliance with the rules of Local 872's hiring hall in that you did not reregister on the out-of-work list for several months after the conclusion of a job. In addition, you missed the hiring hall roll call in December 2017, which resulted in your name being removed from the out-of-work list. As such, this allegation does not constitute a violation of the LMRDA that may have affected the outcome of the election.

You also alleged that the election notice did not follow the Constitution and not all members received the notice. The Department's investigation revealed that this allegation is without merit. Local 872 sent the election notice and ballots to members on May 10, 2018. Consistent with the LMRDA, the Department's regulations, and the ULUC, these materials informed members of the date, time, and manner of the election as well as the offices to be filled. Moreover, you did not provide any evidence of members who did not receive notice of the election.

To the extent you alleged other violations during the course of the Department's investigation, those allegations are deemed out of scope as they were not raised in your internal protest to Local 872 or in your complaint to the Department.

For the reasons set forth above, the Department has concluded that there were no violations of the LMRDA that may have affected the outcome of the election. Accordingly, the office has closed the file on this matter.

Sincerely,



Brian A. Pifer
Chief, Division of Enforcement

cc: Terry O'Sullivan, General President
Laborers International Union of North America, AFLCIO
905 16th Street, NW
Washington, DC 20006

David McCune, President
LIUNA Local 872
2345 Red Rock Street
Las Vegas, NV 89142

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