



August 29, 2019



Dear [REDACTED]

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on April 5, 2018, alleging that the Communications Workers of America, Local 9505, violated Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) by overturning the results of the November 18, 2017 election of officers and ordering a new election.

The Department of Labor conducted an investigation of your allegation. As a result of the investigation, the Department has concluded, with respect to your specific allegation that no violation occurred. The following is an explanation of this conclusion.

In your complaint, you alleged that the Local 9505 election committee improperly decided to rerun the November 18, 2017 election after receiving election protests. You disagreed with the committee's conclusion that it was necessary to conduct a rerun because candidates had campaigned on company property and used union resources in violation of the election rules.

The standard applicable to the Secretary in deciding whether a new election is required, i.e., finding a violation of the LMRDA that may have affected the outcome of the election, is not applicable to a union's decision to conduct a rerun election. The requirement set out in section 402(a) of the LMRDA, that a member exhaust internal remedies before filing a Title IV complaint with the Department, was included to give unions a chance to correct election problems and deficiencies, thereby preserving a maximum amount of independence and encouraging responsible self-government. In furtherance of this legislative objective, the Department accords a degree of deference to union decisions on internal union election protests to conduct 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 Act and holding a new election is unreasonable.

The Department's investigation established that, following the November 18, 2017 election, the election committee received numerous election complaints filed by other candidates that included allegations that you and Executive Board Candidate [REDACTED] violated section 401(g) of the LMRDA during the election period. This section prohibits the use of union or employer resources to promote the candidacy of any person in an election of union officers. 29 U.S.C. 481(g). The election committee received reports that various candidates were campaigning on company property and continued to receive such reports even after issuing a statement reminding candidates of the rules. In addition, the committee learned that Executive Board Candidate [REDACTED] violated the local's election campaign rules by using union property, the "mobilization group me" distribution list, to send campaign material promoting her own candidacy and endorsing other candidates on her slate. As explained by the election committee in its report dated December 2, 2017, it "determined that there [was] enough reason to believe that these actions affected the outcome of the election" because "[m]any of those not complying with the election rules received a high number of votes." It explained that it viewed a rerun of the entire election as the only way to rectify the situation.

The Department's investigation confirmed the union's findings with respect to these allegations. The investigation found evidence indicating that you campaigned on paid union time outside the Pasadena work site. You were the highest vote getter in the race for president. Further, [REDACTED] acknowledged that she had used the "mobilization group me" distribution list to send campaign literature via text message to thirteen mobilization coordinators working at the City of Commerce location who were in touch with sixty-two members. Among the candidates promoted in [REDACTED] campaign literature was Presidential Candidate [REDACTED], who was the second highest vote getter. Because no candidate received more than fifty percent of the vote, she qualified for the rerun over the third highest vote getter by 10 votes, which was fewer than the number of possible votes affected by the violation.

The Department's investigation did not reveal any evidence to show that Local 9505's decision to conduct a rerun election was based on a rule that violated the LMRDA, was made in bad faith, or was contrary to the principles of union democracy embodied in the LMRDA. Accordingly, Local 9505's decision to hold a new election in order to ensure a fair election, under these facts, was reasonable and does not violate the LMRDA.

For the reasons set forth above, it is concluded that no violation of the LMRDA occurred. Accordingly, the office is closing its file in this matter.

Sincerely,



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Chief, Division of Enforcement

cc: Chris Shelton, National President
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