



May 30, 2020

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to your complaint filed on August 28, 2019, with the Department of Labor (Department) alleging that a violation of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U.S.C. §§ 481-483, occurred in connection with the election of officers conducted by the International Association of Machinists (IAM), District Lodge 19, on June 14, 2019.

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

First, you alleged that IAM District Lodge 19 ("DL 19") did not provide candidates with a list of the local lodges that nominated each of their slate members. Section 401(c) of the LMRDA, 29 U.S.C. § 481(c), contains a general mandate that adequate safeguards to ensure a fair election shall be provided. The investigation revealed that on February 19, 2019, Secretary-Treasurer [REDACTED] sent you a "Nomination Notification" letter notifying you that you had been nominated for one of the 13 general chairman positions. The letter identified the local lodges that had nominated you. All candidates received similar letters. The Department reviewed these letters and verified that the union sent each candidate a letter that stated which lodges had nominated that candidate. There was no violation.

Second, you alleged that President/Directing General Chairman [REDACTED], Secretary-Treasurer [REDACTED] and other general chairmen used union resources to campaign at Lodge 1450 (in Chattanooga, Tennessee), Lodge 602 (in Alliance, Nebraska), and the Heritage Steam Shop (part of Lodge 1338, in Cheyenne, Wyoming) in April and May 2019. Section 401(g) of the LMRDA prohibits the use of union or

employer resources to promote the candidacy of any person in an election subject to Title IV. 29 U.S.C. § 481(g). The Department's investigation revealed that the April 30, 2019 trip to Chattanooga and the May 3, 2019 trip to Alliance, Nebraska were made for union purposes, not to campaign. The unscheduled visit to the Union Pacific Railroad Heritage Steam Shop in Cheyenne, Wyoming (following the Alliance, Nebraska visit) involved a tour of the facility. The Department found no evidence that the officers campaigned during the three visits. There was no violation.

You also alleged that in April 2019, ██████████ discovered that you had assisted a member who was represented by a different general chairman and informed you that you could not have any contact with members unless you represented them. Section 401(e) provides that members have the right to support the candidate or candidates of their choice without improper interference. 29 U.S.C. § 481(e). The Department reviewed the April 18, 2019 email from ██████████ to you. The email advised "when you are contacted by a member who is not assigned to you, you should let them know you are not their servicing General Chairman and send them directly to me. . . . You should not to be contacting any member not assigned to you to follow up." You indicated that ██████████ did not advise you that you could not campaign to these members, and the email did not contain any reference to campaigning or any prohibition against you campaigning. Accordingly, the Department's investigation did not find any evidence that ██████████ prohibited you from engaging in campaigning. There was no violation.

Third, you alleged that DL 19 shared email address lists with one of its general chairmen so incumbents could use these lists to campaign, but did not provide any email address lists to candidates on the challenger slate. Section 401(c) provides that it is the duty of the labor organization and its officers to refrain from discrimination in favor of or against any candidate with respect to the use of lists of members. 29 U.S.C. § 481(c); 29 C.F.R. § 452.71(a). You stated that member ██████████ and general chairman candidate ██████████, who ran on the challengers' slate, received campaign emails from incumbent candidates ██████████ and ██████████. ██████████ stated that he created an email list from his personal contacts for purposes of sending out a campaign email. ██████████ further stated that his list inadvertently included ██████████, a candidate for general chairman on the incumbents' slate. Also, ██████████ stated that ██████████ may have obtained the email list from ██████████ and used that list to send out his own campaign email. The investigation revealed that DL 19 does not maintain members' email addresses. Consequently, the investigation found no evidence that DL 19 provided email lists to any candidate, or that any campaign emails were sent by DL 19 supporting the incumbent candidate for secretary-treasurer (*i.e.*, the only contested LMRDA-covered race). The two campaign emails supported the candidacy of general chairmen (non-LMRDA positions). There was no violation.

Fourth, you alleged that [REDACTED] was improperly disqualified as a candidate for president/directing general chairman. 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 section 504 and to reasonable qualifications uniformly imposed). According to Article II, Section 4, and Article XXII, Section 6, of the IAM Constitution, members must be working at the trade for six months prior to nominations to be eligible to run for office unless, for example, they cannot obtain employment due to a temporary physical disability. The IAM has consistently defined "temporary" as no more than a six-month period. The Department's analysis of [REDACTED] dues records revealed that he had not worked at the trade since February 2018. His member profile showed a dues reduction to \$2 from March 2018 to July 2019. [REDACTED] had not been working due to a medical condition and was paying monthly "unemployment dues" to maintain union membership. [REDACTED] medical specialist conditionally cleared him to return to work in February 2018, but the employer did not. DL 19 ruled [REDACTED] ineligible to run for office because he did not meet the "working at the trade" requirement. DL 19 asserted that [REDACTED] should have filed a "work claim" or grievance with his local lodge if he wanted the union to assist him in his efforts to get the employer's clearance to return to work. [REDACTED] never filed such a claim or grievance. [REDACTED] also had the right to file a grievance on his own (without involving the IAM) under the Railway Labor Act but never did so.

Based on the IAM's interpretation of "temporary" as no longer than six months and the fact that [REDACTED] was not working at the trade for over a year, the Department determined that this allegation was not substantiated. There was no violation.

Finally, you alleged that four members [REDACTED] [REDACTED] informed you that an incumbent general chairman, candidate [REDACTED] [REDACTED], campaigned on behalf of his slate at the Burlington Northern Santa Fe (BNSF) facility (where Local Lodge 706 members work) in Barstow, California on May 30, 2019. Section 401(g) of the LMRDA prohibits the use of union or employer resources to promote the candidacy of any person in an election subject to Title IV. 29 U.S.C. § 481(g). Officers may not campaign on time that is paid for by the union, or use union funds, facilities, equipment, stationery, etc., to assist them in such campaigning. 29 CFR § 452.76. To do so is a violation of 401(g) of the LMRDA. Estrada provided the Department with a signed statement in which he acknowledged that he campaigned in the break room at the BNSF facility and that he campaigned on personal time. OLMS found no evidence to the contrary. There was no violation.

For the reasons set forth above, the Department has concluded that there was no violation of Title IV of the LMRDA that may have affected the outcome of the election, and I have closed the file regarding this matter.

Sincerely,



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Chief, Division of Enforcement

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