



June 9, 2023

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the United States Department of Labor on March 9, 2022, alleging that the International Longshoremen's Association (ILA), Local 1426, violated Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) when it decided to conduct a union-ordered rerun of its October 5, 2021 election of officers.

The Department of Labor (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. Following is an explanation of this conclusion.

You alleged that Local 1426 erroneously decided to rerun the October 5, 2021 election in which you were elected to the office of vice president. Section 402(a) of the LMRDA requires that a union member exhaust internal union remedies before filing a Title IV complaint with the Department. 29 U.S.C. § 482(a). This requirement was included in the LMRDA to give unions a chance to correct election problems and deficiencies themselves, thereby preserving a maximum amount of independence and encouraging responsible self-governance. In furtherance of this legislative objective, the Department accords a certain degree of deference to a union's decision to hold a new election in response to internal union protests. The Secretary will not seek to reverse a union's remedial decision to hold a new election, unless it is apparent from the Department's investigative findings 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 LMRDA and holding a new election was unreasonable. Here, the Department's review of the record evidence, the union's candidate eligibility standards, and its application of such standards, did not substantiate any such findings.

On October 6, 2021, Local 1426 member [REDACTED] protested the election, alleging that you were not a member in good standing of Local 1426 and therefore ineligible for the Vice President position that you won. The local determined that [REDACTED] protest was

meritorious, and you appealed that decision. The appeal was heard on January 11, 2022. On January 25, 2022, the South Atlantic & Gulf Coast District agreed with the Local 1426 decision. On February 3, you appealed the District's decision and, on March 3, the International Committee considered your appeal.

In a letter dated April 14, 2022, you were informed that, based on the International Committee's report and recommendations, the ILA Executive Council ruled that you were not in good standing at the time of the 2021 nominations and the election and, therefore, you were not eligible to run for or hold office. The International determined that Local 1426 must rerun the October 5 election for the office of vice president no earlier than June 15, 2022, to give Local 1426 sufficient time to properly notice the rerun election and to give you a reasonable time to pay your outstanding dues and service charges. The International determined that if you paid those outstanding amounts by May 31, 2022, you could be listed as a candidate in the union-ordered rerun election. You disagree with the International's ruling and its decision that a new election be conducted.

The investigation found that Article XIII, Section 3 of the International Constitution prescribes the eligibility standards for candidacy. This provision provides in relevant part, "[s]ubject to . . . reasonable eligibility requirements as a local union may impose, no person shall be eligible for office in any local union . . . unless he has been:

(a) a member in good standing of such local union for at least one (1) year preceding the date of his nomination." The International interprets "member in good standing," as used in Article XIII, Section 3 of the International Constitution, to mean that the member has fulfilled all requirements for membership provided by the member's local union bylaws and has paid all dues and assessments owed by the member to the union at the time of nominations and the election. Such dues and assessments include the Local 1426 union dues, International dues, and service charges applicable to earned wages.

For the 2021 election, nominations were held on September 20, 2021, and, therefore, the qualifying period for establishing good standing for nominations for office was September 20, 2020, to September 19, 2021. In addition, a member had to be in good standing at the time of the election to be eligible for election to office. The Department reviewed the West Gulf Maritime Association employment verification report for the years 2016, 2017, 2018, and January 1, 2019 through October 16, 2019, and the 2016, 2017, 2018, 2019 annual service charge reports from your employer. The Department also reviewed Local 1426's cash receipts journal for the period of January 1, 2016 through December 31, 2021, copies of personal checks paid to Local 1426, and Local 1426's cash receipts journal for the period of April 1, 2011 through March 31, 2022.

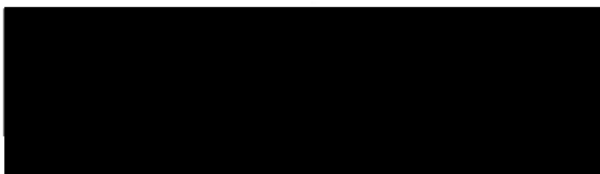
This review found that, at the time of nominations and the election, you had not paid service charges or International dues from September 2016 until October 2019. At the time of nominations and the election you owed and had not paid \$3,314.89 in service charges and the \$307.34 in International dues.

You asserted, however, that you were eligible because the union did not treat you equally with respect to service charges and because the union failed to afford you a full and fair hearing under Section 101(a)(5) of the LMRDA, 29 U.S.C. § 411(a)(5), in connection with your disqualification from office. However, as noted above, the International Committee afforded you a hearing on March 3, 2022, on your disqualification. You attended the hearing and were represented by private legal counsel. All parties present at the hearing were afforded a full and fair opportunity to present evidence in support of their positions and to examine and cross-examine witnesses. You were given as much time as needed to speak in support of your positions. Numerous exhibits that you submitted to the International Committee were entered into evidence and you provided testimony in your defense. During such testimony, you asserted that you had entered an arrangement with Local 1426 absolving you of any obligation to pay the service charges to the local. The International found that this arrangement was invalid and improperly absolved you of your financial obligations to Local 1426 and impinged upon certain of your responsibilities as vice president of Local 1426.

On these facts, the union's decision to rerun the election because of the nomination and election of an ineligible candidate was not unreasonable, in bad faith, or contrary to LMRDA principles. The standard applicable 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, thereby preserving a maximum amount of independence, and encouraging responsible self-government. Therefore, the Secretary will not seek to reverse the union's decision that Local 1426 hold a new election for the office of vice president. The LMRDA was not violated.

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

Sincerely,



Chief, Division of Enforcement

cc: Harold J. Daggett, International President
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