



September 19, 2023

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the United States Department of Labor (Department) on May 26, 2023, alleging that the International Longshoremens' Association (ILA), South Atlantic Gulf Coast District (SAGCD), violated Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) when it ordered a rerun of Local 1359-1860's December 13, 2022 election of officers.

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 Act. Following is an explanation of this conclusion.

You alleged that ILA SAGCD improperly ordered a rerun of Local 1359-1860's December 13, 2022 election for the LMRDA-covered positions of President, Recording Secretary, and five Trustees.¹ 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 constitution and bylaws, and the union's application of such standards, did not substantiate any such findings.

¹ The ILA SAGCD also ordered a rerun for non-covered positions: three Audit Committee members.

Article XIV, Section 5 of the ILA Constitution and Article XIV, Section 3 of the Local 1359-1860 Bylaws states that members who are thirty (30) days or more in arrears in the payment of dues will be automatically suspended from all rights and privileges of membership. Members who are eighty (80) days or more in arrears will be given written notice that failure to pay within ten (10) days will result in automatic expulsion. ILA's governing documents further provide that members suspended or expelled for the non-payment of dues or assessments "may be reinstated only upon the payment of all money due at the time of his suspension or expulsion, together with his initiation fee if expelled." ILA Const., Art. XIV, Sect. 6; Local 1359-1860 Bylaws, Art. XIV, Sect. 6. Local 1359-1860 imposes an initiation fee of \$1,000. Bylaws, Art. XIV, Sect. 1.

Between August 2021 and April 2022, ILA's International union imposed a trusteeship on Local 1359-1860. The Department's investigation found that during that time, the trustees were unable to determine an accurate roster of members in good standing. Local 1359-1860 kept a list of approximately 21 members, who were allegedly suspended or expelled from the union and owed a re-initiation fee of \$1,000 for non-payment of dues. However, at the January 2022 meeting, the trustees announced that all members were currently in bad standing because they all had only paid \$20 in annual dues, even though the annual dues were \$40 according to the local's Bylaws. *See* Local 1359-1860 Bylaws, Art. XIV, Sect. 2. Given that all members had paid insufficient dues, the trustees decided to waive the \$1,000 reinstatement fee and permitted suspended and expelled members to bring themselves into good standing status by paying \$20 for fiscal year ending (FYE) 2021 dues, \$40 for FYE 2022, and \$40 for FYE 2023.

After the trusteeship had been lifted, Local 1359-1860 held an election on December 13, 2022. The Department's investigation found that after receiving protests from two unsuccessful candidates for President, the SAGCD appointed a committee to investigate and hold a hearing regarding the December 13, 2022 election. You attended and testified at the hearing. 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. The Committee found that you, other union officers, and the election committee disregarded the trustees' decision to waive the reinstatement fee and required approximately 21 members to pay the \$1,000 to become eligible to vote. Accordingly, the Committee determined that those otherwise eligible members were denied the opportunity to vote and held that there must be a rerun for all races decided by less than 21 votes. On June 13, 2023, Local 1359-1860 held a new election for the positions of President, Recording Secretary, and five Trustees, along with non-LMRDA covered positions.

On these facts, the union's decision to rerun the election for the aforementioned positions 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 1359-1860 hold a new election for the offices of President, Recording Secretary, and five Trustees. The union's decision to not reopen nominations in the rerun election was also reasonable. You alleged that the failure to rerun nominations did not allow members to participate in nominations. The International reasoned, however, that the "Local's failures did not impact the nominations process." Nothing in the Department's investigation showed that that decision was unlawful, unreasonable, or in bad faith. The LMRDA was not violated.

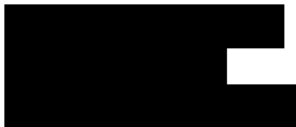
For the reasons set forth above, the Department has concluded that there was no violation of Title IV of the LMRDA and I have closed the file regarding this matter.


Sincerely,



Tracy L. Shanker
Chief, Division of Enforcement

cc: Dennis Belezair, Financial Secretary-Treasurer
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, Associate Solicitor
Civil Rights and Labor-Management Division