



September 21, 2023

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the Department of Labor (Department) on March 17, 2023, alleging violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA), 29 U.S.C. §§ 481-83. You alleged that violations occurred in connection with the election of union officers conducted by the International Longshoremen's Association (ILA) Local 1414 on December 6, 2022.

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

You alleged that one election teller, [REDACTED], held conversations with members waiting in line to vote, in violation of the LMRDA. Section 401(c) of the LMRDA provides that "[a]dequate safeguards to insure a fair election shall be provided." 29 U.S.C. § 481(c). Section 401(e) further requires that unions conduct their elections in accordance with the union's constitution and bylaws. 29 U.S.C. § 481(e). Article VI, Section 4(b) of Local 1414's Constitution and Bylaws prohibits campaigning within 150 feet of the polling place.

The investigation did not find any evidence that [REDACTED] engaged in campaigning at the polls. You did not personally witness any of [REDACTED] conversations and did not know what he spoke about, how long he spoke, or with whom he spoke. Observers [REDACTED] and [REDACTED] saw [REDACTED] engaging in conversations with members in line, but they did not hear any of these conversations and did not provide names of any members who spoke with [REDACTED]. The election committee chair reported that [REDACTED] conversations with members were limited to maintaining order in the voting lines. Several other union officials and members were interviewed; none reported witnessing any campaigning at the polls. There was no violation of the LMRDA.

You also alleged that nonmembers and/or ineligible members were permitted to vote in the election. You alleged that only members whose names were posted 30 days prior to the election were eligible to vote and that new members were required to be sworn in before they could vote. Section 401(e) of the LMRDA provides that every member in good standing shall have the right to vote for or otherwise support the candidate or candidates of his choice. 29 U.S.C. § 481(e).

The investigation found no evidence that members were required to be sworn in or be members for 30 days before they could vote. Article XIII, Section 1(b) of ILA's Constitution and Bylaws provides that every member in good standing shall have the right to vote in the election and that delinquent members may pay their dues on election day to be permitted to vote. The October 28, 2022 notice of election reiterated that all members in good standing would have the right to vote in the election and that delinquent members could pay their dues on election day to be permitted to vote. On election day, members whose names were not on the voter eligibility list were referred to the financial secretary-treasurer to confirm they were in good standing and eligible to vote. The investigation disclosed that 64 members joined Local 1414 between November 1, 2022 and December 6, 2022. All 64 members were current with their dues on election day and therefore eligible to vote. There was no violation of the LMRDA. Rather, permitting new members to vote ensured the union's compliance with the LMRDA's mandate that every member in good standing is entitled to vote in an election. *See* 29 U.S.C. § 481(e).

You also alleged that members were denied the right to vote when internet outages caused voting devices to fail. Section 401(c) requires unions to provide adequate safeguards to ensure a fair election. 29 U.S.C. § 481(c). Thus, a union's discretion regarding the conduct of an election is circumscribed by a general rule of fairness. 29 C.F.R. § 452.110. The investigation found that internet outages on the day of the election caused some but not all of the voting devices to be inoperative for short periods of time. During the outages, the affected devices were not used. Members waited in line during the outages. There was no evidence that any member was prevented from voting due to the outages.

The Department also reviewed records from Honest Ballot and Simply Voting, Inc. (the owner of the technology used by Honest Ballot to conduct elections). To preserve voter secrecy, Honest Ballot did not assign names to the voters; instead, it created voter identification numbers ranging from 102 to 1199. Records showed that ballots were cast using 1,058 unique voter identification numbers. A turnout statistics report showed no large periods of time in which voting did not occur. Following the election, Honest Ballot provided envelopes containing 1,078 voter slips collected at the election. Honest Ballot explained that members sometimes leave the polling site after registering but before voting, and this likely accounted for the 20 extra voter slips (1,078 voter slips and 1,058 voter identification numbers generated at the polls). There is no evidence that any

of these irregularities was due to tampering or affected the outcome of the election. The Department conducted a recount of the results in the election database system. The results of the Department's recount were the same as the certified results reported by Honest Ballot. There was no violation of the LMRDA.

Finally, you raised several other allegations in your complaint to the Department that were not timely filed with the union. Section 402(a) of the LMRDA requires a member to exhaust the remedies available under the union's constitution and bylaws before filing a complaint with the Secretary of Labor. 29 U.S.C. § 481(a). Accordingly, these allegations are not properly before the Department. 29 C.F.R. § 452.136(b-1).

For the reasons set forth above, the Department has concluded that there was no violation of the LMRDA that may have affected the outcome of the election. Accordingly, the office has dismissed your complaint and closed its file in this matter.


Sincerely,



Tracy L. Shanker  
Chief, Division of Enforcement

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