U.S. Department of Labor

Office of Labor-Management Standards
Division of Enforcement
Washington, DC 20210
(202) 693-0143 Fax: (202) 693-1343

April 27, 2010

[redacted]

Dear Mr. Tainter:

This Statement of Reasons is in response to your complaint filed with the Department of Labor on January 25, 2010, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (Act), 29 U.S.C. §§ 481-484, occurred in connection with the election of officers conducted by the Graphic Communications Conference, Local No. 600M, (Local 600M or union).

The Department of Labor (Department) conducted an investigation of your allegations. As a result of the investigation, the Department has concluded, with respect to each of your allegations, that there was no violation of the Act. Following is an explanation of this finding.

You alleged that the union failed to properly notify members of the nominations meeting. Section 401(e) of the Act, 29 U.S.C. § 481(e), requires that a union provide a reasonable opportunity for the nomination of candidates. To meet this requirement, a union may notify members of the nominations meeting by posting the nominations notice, if the posting is reasonably calculated to inform all members in good standing in sufficient time to permit the members to nominate the candidates of their choice. *See* 29 C.F.R. § 452.56(a). The investigation disclosed that, approximately 30 days prior to the September 13, 2009 nominations meeting, notice of the meeting was posted at each work facility in areas with sufficient prominence to be seen by all members working at the facilities, including in the cafeteria areas and on union bulletin boards. Nominations notices also were mailed to the home addresses of those eligible members who were on laid-off status.

During the investigation, you provided the Department with the names of fourteen individuals who you alleged were not properly informed of nominations. The investigation disclosed that the union notified three of the members of the nominations meeting by mail and that another nine of the named individuals were not eligible to make nominations, run for office, or vote in union officer elections. The remaining two members were actively employed at facilities where union stewards had posted notices informing members of the nominations meeting. They, therefore, had sufficient

opportunity to view the posted notices. Under these circumstances, members were properly notified of the nominations meeting and, thus, the union afforded a reasonable opportunity for the nominations of candidates. The Act was not violated.

You also alleged that the union failed to properly notify members of the election. Section 401(e) of the Act requires a union to mail notice of the election to the last known home address of each member at least fifteen days prior to the election. During the September 13, 2009 nominations meeting, only one eligible candidate was nominated for each of the offices of president, vice president A, and secretary treasurer. There were no nominees for the remaining offices and the bylaws do not establish any policy regarding write-in candidacy. As a result of the lack of opposition, the eligible candidates were elected by acclamation during the nominations meeting and the union did not conduct an election in December 2009. The union was not required to notify members of the December 2009 election because the candidates had been elected to office without opposition during the nominations meeting. The Act was not violated.

You alleged that the president emeritus of the union and another member are retired and no longer work in the trade but that they are or may be officers of the union. Section 401(e) of the Act requires a union to conduct its election of officers in accordance with its constitution and bylaws. The candidacy eligibility provision of the union's bylaws requires a member to be actively engaged in or available for work at the trade for at least one year prior to the nominations meeting. The investigation disclosed that these individuals are retired and that they are not serving as officers of the union. The Act was not violated.

You alleged that [redacted] is the union's sergeant-at-arms and that he has been absent from the membership meetings and, thus, the union has violated Article 4, section 4.6 of the union's bylaws. You also alleged that, as a result of such violation, the meeting attendance records were incorrect. Section 401(e) of the Act requires a union to conduct its election of officers in accordance with its constitution and bylaws. Article 4, section 4.6 of the union's bylaws provides, "an attendance record shall be kept at the entrance to the meeting place and every member shall be required to sign his name. The signing of the record shall be supervised by the Sgt-at-Arms."

The investigation disclosed that [redacted] was the incumbent sergeant-at-arms, not [redacted], and that [redacted] supervised the sign-in process at the membership meetings. The investigation also disclosed that, during membership meetings, the attendance book was located at the entrance to the meeting room and that [redacted] sat at that entrance and ensured that all of the attendees at the meeting signed the attendance book prior to entering the meeting, including those members who arrived at the meeting late. Thus, the union complied with the attendance book and sign-in requirements provided for in its bylaws. Further, the investigation did not reveal any

evidence that the attendance records were inaccurate. Neither the Act nor the union's bylaws were violated.

You alleged that you attended the required number of membership meetings but that you were disqualified from candidacy for failure to meet the meeting attendance requirement. Section 401(e) of the Act requires a union to conduct its election of officers in accordance with its constitution and bylaws. The candidacy eligibility provision of the union's bylaws requires a member to have attended at least two membership meetings during the twelve-month period prior to the nominations meeting. The nominations meeting was conducted on September 13, 2009. Thus, the candidacy qualifying period for meeting attendance was from September 2008 to August 2009. During that period, membership meetings were conducted on October 12, 2008, December 14, 2008, March 8, 2009 and May 17, 2009.

You admitted during the investigation that you did not attend the March 8, 2009 meeting. The union's review of the attendance records showed that you signed the attendance book only for the October 12, 2008 meeting. The union, thus, concluded that you had attended only that one meeting. The Department's review of the meeting attendance records did not disclose any evidence that the records were inaccurate, that the records had been altered, or that the union acted in bad faith and confirmed the union's finding of your ineligibility. The Act was not violated.

Finally, regarding your remaining allegations, section 402(a) of the Act, 29 U.S.C. § 482(a), requires that union members exhaust the internal union remedies available to them under the constitution and bylaws of their labor organization before they may file a complaint with the Secretary. The investigation showed that some of your remaining allegations were not properly exhausted under the procedures available under the union's constitution and bylaws and, thus, they are not properly before the Department. The remaining allegations, even if true, would not constitute violations of the Act and, thus, the Department does not have jurisdiction over these matters. Therefore, your remaining allegations are dismissed.

For the reasons set forth above, it is concluded that there was no violation of the Act and I have closed the file on this matter.

Sincerely,

Patricia Fox

Patricia Fox
Acting Chief, Division of Enforcement

cc: George Tedeschi, President
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