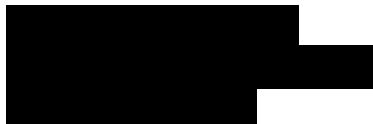




November 15, 2016



Dear [REDACTED]:

This Statement of Reasons is in response to your July 8, 2016 complaint filed with the United States Department of Labor (Department) alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), occurred in connection with the May 10, 2016 combined nominations meeting and election of delegates for the Laborers International Union of North America (LIUNA), Local 2.

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

You alleged that, as a general matter, having the nomination of candidates and election of delegates on the same night violated the LMRDA. However, the LMRDA does not require that there be a specific amount of time between nominations and election. As the Department's regulations state, "both may be scheduled to be held at the same meeting if, during a reasonable period prior to such nomination-election meeting, every member eligible to hold office who intends to run for office is afforded the protection provided in section 401(c), including sufficient opportunity to campaign for office." 29 C.F.R. § 452.65. Accordingly, it does not violate the LMRDA, generally, to combine a nominations meeting and an election.

You also allege that the combination of nominations and election violated the LMRDA in this case because candidates did not have sufficient time to campaign or to inspect the membership list. Section 401(c) of the LMRDA provides that local labor organizations have a duty to comply with all reasonable requests of candidates to distribute campaign literature at the candidate's own expense. Section 401(c) also protects candidates' rights to inspect a list containing the names and last known addresses of all members of the labor organization within 30 days prior to an election. 29 U.S.C. § 481(c). Additionally, as you mentioned in your complaint, the regulations

state that “[t]here must be a reasonable period prior to the election during which office-seekers and their supporters may engage in the campaigning that the Act contemplates and guarantees.” 29 C.F.R. § 452.79. However, while unions must afford candidates a campaign period prior to the election, it is not required that this period of time be between the nominations meeting and the election. As stated above, 29 C.F.R. § 452.65 provides that nominations and elections may be conducted at the same meeting so long as members eligible to hold office have an opportunity to campaign “prior to such nomination-election meeting.”

The Department’s investigation revealed that there was no restriction on members campaigning or requesting to inspect the membership list prior to the May 10, 2016 nominations and election meeting. You claimed that certain members were deterred from running for office when, in your position as alternative election judge, you advised them that they would only have one hour to campaign, would not have time for a mailing, and would not have more than one hour to inspect the membership list. However, you have not identified these members, nor have you identified any official union policy upon which your advice was based. The LIUNA Constitution states that the nomination and election of Convention delegates will occur between May and the end of June of the Convention year, thus putting members on notice of the election should they choose to engage in campaigning prior to that point. The investigation did not reveal any members who had tried to engage in campaigning, or had tried to inspect the membership list, and were denied. Accordingly, there was no violation of the LMRDA.

Finally, you allege that members were not provided with a reasonable opportunity to vote because the polls were only open for three hours and some members may have needed to travel a great distance to get there. Section 401(e) of the LMRDA states that each member in good standing is entitled to cast one vote. However, because members were elected by acclamation at the May 10 nomination and election meeting, no balloting was held and, therefore, the right to vote was not implicated. As such, there was no violation.

This allegation may also include a claim that the timing of the nominations and election meeting created an unreasonable opportunity to nominate candidates. In this regard, the Department notes that you did not identify any members who wanted to participate in the nomination meeting but could not because of the time and location of the meeting. Therefore, even assuming that you intended to raise this allegation and that it is within the scope of the investigation, any violation would not have amounted to a violation affecting the outcome of the election.

Finally, you have raised allegations that were not presented to the union in your internal protest. Under section 402(a) of the LMRDA, these allegations are not properly before the Department and were not investigated.

For the reasons set forth above, it is concluded that no violation of the LMRDA occurred that may have affected the outcome of the election. Accordingly, the office has closed the file on this matter.

Sincerely,



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Office of Labor-Management Standards

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