



April 19, 2018



Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on December 19, 2017, alleging that a violation of the election provisions of the Labor Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U.S.C. § 481, occurred in connection with the officer election held on September 12, 13, and 14, 2017, and the runoff election held on September 26, 27, and 28, 2017, by the International Longshore and Warehouse Union (ILWU), Local 13, in San Pedro, California.

The Department of Labor conducted an investigation of your allegation. As a result of the investigation, the Department has concluded, with respect to your allegation, that there was no violation of the LMRDA that may have affected the outcome of the election.

You challenged Local 13's determination that you were ineligible to run for the office of Night Business Agent. Section 401(e) of the LMRDA provides that every member in good standing is eligible to be a candidate for office subject to reasonable qualifications uniformly imposed. The investigation revealed that Article IV, Section 1, f. of the Local 13 Constitution outlines the eligibility requirements for members wishing to run for offices in the local's officer elections. Article IV, Section 1, f. provides:

In order to have his name placed on the ballot and to hold any office or position, each candidate must have been in good standing and an active Longshoreman in the industry in this Local or working for the ILWU for the previous twelve (12) months. This is not applicable to men injured in the industry during the previous twelve (12) months.

This provision establishes as a working at the trade criterion for eligibility to run for office. Department of Labor regulations recognize that it is not per se unreasonable for a union to require that candidates be employed at the trade. 29 C.F.R. 452.41. The investigation determined that to be "an active Longshoreman in the industry in this Local," members must be "registered" with the Pacific Maritime Association (PMA), a

non-profit organization that negotiates labor agreements with the ILWU on behalf of shipping and stevedoring companies operating throughout the U.S. Pacific coast. PMA and ILWU jointly operate dispatch halls through which jobs are assigned.

The Department's investigation determined that in April 2017, an independent arbitrator found you guilty of a charge filed against you and imposed the penalty of "deregistration." The investigation revealed that deregistration is the permanent expulsion of a longshoreman from working for any member companies of the PMA. The deregistered member is also banned from joint ILWU/PMA facilities such as dispatch halls, which renders the member functionally unemployable as a longshoreman throughout the U.S. Pacific Coast. In July 2017, the Coast Appeals Officer affirmed the arbitrator's decision. The contract between the ILWU and the PMA states that the Coast Appeals Officer's decision is "final and binding without further appeals." Consequently, the Coast Appeals Officer's decision upholding the penalty of deregistration eliminated any opportunity for you to work as a longshoreman under Local 13's jurisdiction.

As registration is a requirement for being "an active Longshoreman in the industry" in Local 13, you failed to meet the requirement for your name to be placed on the ballot as eligible to hold office in Local 13. Also, you did not allege, and the investigation did not reveal, any evidence that you were "working for the ILWU" in the previous twelve months, which would have satisfied the eligibility requirement. Accordingly, you did not meet either criterion for being eligible to be placed on the ballot and hold office. The Department's investigation revealed that you were not an active longshoreman in the industry for the twelve month period prior to the fall 2017 Election or the fall 2017 Run-Off Election.

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

Sincerely,



Sharon Hanley
Chief, Division of Enforcement

cc: Robert McEllrath, President
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