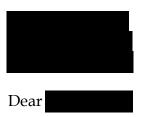
U.S. Department of Labor

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



ran unopposed for

May 3, 2019



This Statement of Reasons is in response to the complaint you filed with the Department of Labor (Department) on February 8, 2019, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the December 4, 2018 election of officers that was conducted by the Pipefitters, Steamfitters, Refrigeration, and Air Conditioning Service Local 636 (Pipefitters Local 636) of the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of United States and Canada (UA).

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

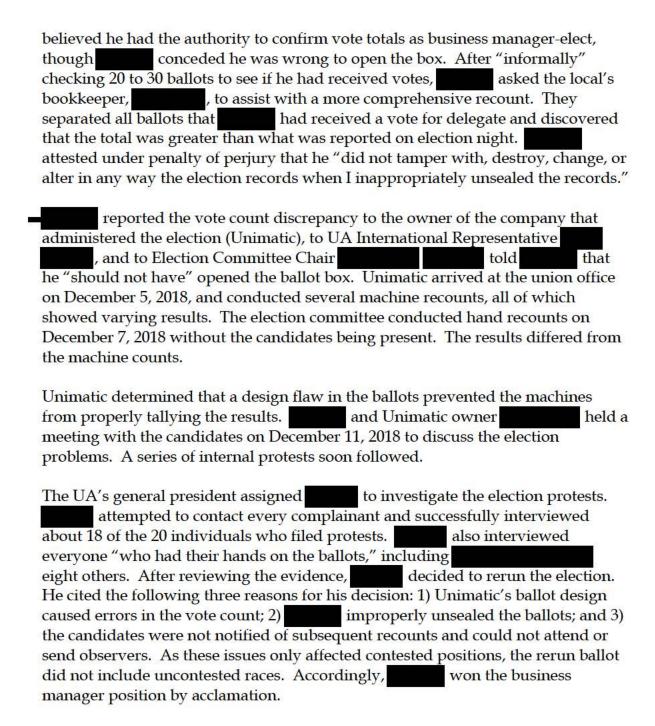
I. Background

The Department's investigation established the following facts:

Assistant Business Manager/Secretary-Treasurer

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the business manager position in the December 4, 2018 election. He also ran for 1
of the 23 Michigan Pipe Trades delegate positions. Based on the December 4th
ballot tally, did not win any of the 23 delegate positions. During the
investigation, stated that he was "shocked" by this result, but he did not
ask for a recount or file a protest on election night because "it had already been a
very long day and everyone was exhausted." In accordance with past practice, the
election committee gave the sealed election records at the end of the tally
because he was the secretary-treasurer.
believed there were discrepancies in the ballot count because he received
far fewer votes for delegate than he did for business manager. Early in the

morning on December 5, 2018, unsealed the ballots in his office alone. He

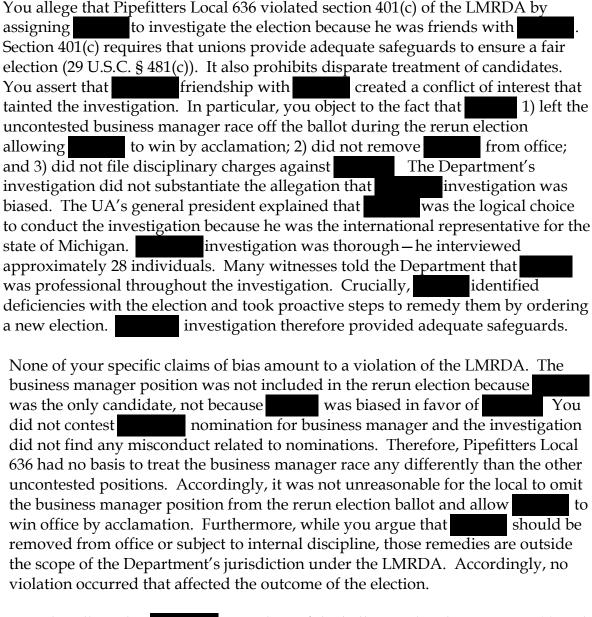


II. Standard of Review

The standard applicable to the Secretary 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 of Labor, thereby preserving a maximum amount of independence and encouraging responsible self-government. In furtherance of this legislative objective, the Secretary accords a degree of deference to decisions on internal union election protests providing for

the conduct of a new election. The Department will not seek to reverse a union's remedial decision to hold a new election, unless it is apparent 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 statute and holding a new election is unreasonable.

III. Discussion of Allegations



You also allege that unsealing of the ballots violated sections 401(c) and 401(e) of the LMRDA. As previously discussed, section 401(c) requires that a union provide adequate safeguards to ensure a fair election. Section 401(e) establishes that an election "shall be conducted in accordance with the constitution and bylaws of" the union. 29 U.S.C. § 481(e). You assert that Gilligan

violated the constitution because he failed to follow the protest procedures and instead conducted his own recount. The investigation revealed that section 125(a) of the UA constitution establishes protocols for filing election protests.

did not act in accordance with the constitution when he opted to open the ballot box himself. Accordingly, the Department concluded that violated section 401(e). Furthermore, while the Department did not find evidence that altered any ballots, he nevertheless undermined the integrity of the election results when he opened the ballots. The Department also identified other factors that call into question the adequacy of the union's safeguards: Unimatic designed a flawed ballot that could not be accurately counted by machine; the local conducted a hand recount, but those results differed from the Department's own recount.

The Department concluded on these facts that Pipefitters Local 636 violated section 401(c) of the LMRDA by failing to provide adequate safeguards to ensure a fair election. However, despite finding violations of sections 401(c) and 401(e), the Department also concluded that the rerun election remedied all deficiencies. The union's decision to rerun the election was not made in bad faith, did not violate the LMRDA, and was not inconsistent with principles of union democracy.

Accordingly, we are closing our file on this matter.

Sincerely,

Brian A. Pifer Chief, Division of Enforcement

cc: Mark McManus, General President
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