



May 12, 2020

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on March 16, 2020. Your complaint alleges that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) occurred in connection with the November 13, 2019 election of officers for International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States, Its Territories and Canada (IATSE) Local 60.

The Department of Labor conducted an investigation into your allegations. As a result of the investigation, the Department concluded, with respect to your allegations, that there were no violations of the LMRDA that may have affected the outcome of the election.

You alleged that [REDACTED], who was elected to the office of Business Agent, was ineligible to hold office because of his criminal record. Section 504 of the LMRDA prohibits persons who have been convicted of certain crimes from holding union office or serving in certain union positions for a period of 13 years. 29 U.S.C. § 504. Section 401(e) of the LMRDA provides that members' eligibility to be a candidate and to hold office is "subject to section 504 and to reasonable qualifications uniformly imposed." 29 U.S.C. § 481(e); see also 29 C.F.R. § 452.34.

When your election complaint was received, the Department was investigating whether [REDACTED] was barred from holding office under Section 504, who by then had been elected by acclamation to the office of Business Agent. The Department ultimately determined that [REDACTED] had a disqualifying conviction and issued a letter outlining such on March 24, 2020. [REDACTED] immediately resigned after receipt of the letter. Local 60 has confirmed that it will hold an election to fill the office of Business Agent as soon as it can safely be done in light of the COVID-19 pandemic.

Although [REDACTED] was ineligible to hold office under the LMRDA, there was no effect on the outcome of the election. As explained below, members were afforded a reasonable opportunity to nominate and be nominated, and no other nominations for the office of Business Agent were accepted. Since [REDACTED] was unopposed during the election, it cannot be concluded that his disqualification would have resulted in another candidate winning the election.

You alleged that the nomination and election notices did not clearly state the location where the nominations meeting and voting would take place or list the offices to be filled. Section 401(e) of the LMRDA requires that a reasonable opportunity shall be given for the nomination of candidates. 29 U.S.C. § 481(e). To satisfy this requirement, unions must give timely notice of nominations reasonably calculated to inform all members of the offices to be filled in the election as well as the date, time, places, and form for submitting nominations. 29 C.F.R. § 452.56. Section 401(e) of the LMRDA also requires that an election notice shall be mailed to each member at his last known address at least 15 days prior to the election. The notice must specify the date, time and place of the election and the offices to be filled, and it must be in such form as to be reasonably calculated to inform the members of the impending election. 29 C.F.R. § 452.99.

The investigation revealed Local 60 provided three notices: a combined nomination and election notice mailed on September 24, 2019, an election notice mailed on October 29, 2019, and a notice for a runoff election for the Vice President position mailed on December 24, 2019. The investigation established that the notices were deficient in the manner you alleged. The combined notice did not specifically state the location of the nominations meeting, list the offices to be filled, or provide detailed information on how to submit nominations. The election and runoff notices did not specifically state the location of the voting.

All three notices did, however, state that the nominations, election, or runoff election would be held at the Local 60 meeting and gave the date and time of Local 60's usual monthly meeting. A few days before the nominations meeting, the Local posted a reminder about the monthly meeting on its Facebook page that referenced the date, time, and location of the meeting. Additionally, the election notice explained which offices were unopposed and listed the candidates for the two contested positions. The runoff election notice listed the candidates for the Vice President position.

The investigation did not reveal any evidence that defects in the notices denied any member the opportunity to nominate a member for office, be nominated as a candidate, or vote in the election. The investigation established that all members knew the location of the monthly meeting because it had been held at the same location for at least the last five years. The Department of Labor reached out to all members that did not attend the nominations meeting. Those members interviewed reported that they knew where the

meetings were held and that they did not want to nominate anyone else or be nominated for any office. Inasmuch as the defects in notice did not deprive members of a reasonable opportunity to nominate or be nominated for office or participate in the election, there was no violation affecting the outcome of the election.

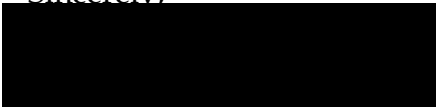
You alleged that Local 60 did not provide clear instructions about how to request an absentee ballot and that absentee ballots were not provided to qualified members. Section 401(e) of the Act, 29 U.S.C. § 481(e), requires that a union provide its members with a reasonable opportunity to vote. According to Department of Labor regulations, providing a reasonable opportunity to vote includes offering absentee ballots when a union knows in advance that a substantial number or particular segment of the members will not be able to exercise their right to vote in person. 29 C.F.R. § 452.95. Section 401(e) of LMRDA also requires unions to hold covered elections in accordance with their validly adopted constitution and bylaws. See 29 C.F.R. § 452.2.

The investigation revealed that the election notices provided sufficient information to request an absentee ballot. The combined notice, election notice, and run-off notice informed members that write-in votes or absentee ballots would be accepted from members currently working out of town on a yellow card attraction, which is consistent with Local 60's Constitution and Bylaws. All three notices invited members to contact Local 60's Secretary with any questions and provided her email address.

The investigation also found no evidence that any members were improperly denied a request for an absentee ballot. Local 60 received only one request from a member (your son) who was unable to vote in person. Your son was in Europe working with a yellow card company. Your son asked that you be allowed to cast a vote for him in the runoff election by circling a candidate's name on the runoff election notice. He explained that it would take too long for an absentee ballot to arrive in Europe. Local 60 did not honor this request because it was a request to vote by proxy. The LMRDA does not allow for proxy voting in a secret ballot election, see 49 U.S.C. § 481(k), and the election notices and Local 60's Constitution and Bylaws also stated that proxy voting is not permitted. Therefore, there was no violation of the LMRDA with respect to absentee ballots.

For the reasons set forth above, the Department has concluded that there was no violation of Title IV of the LMRDA that may have affected the outcome of the election, and I have closed the file regarding this allegation.

Sincerely,


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Chief, Division of Enforcement

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