



May 29, 2020

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to the complaint you filed with the United States Department of Labor (Department) on September 14, 2019, and amended September 18, 2019. The complaint alleged that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA or Act), occurred in connection with the election of officers of the Laborers International Union of North America (LIUNA), Local 773, which was completed on June 5, 2019.

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

You alleged that you and other members of Local 773 did not receive a notice of the nomination meeting held on April 27, 2019. Section 401(e) of the LMRDA requires a union to provide a reasonable opportunity for the nomination of candidates. Article VI, Section 1(b) of the LIUNA Uniform Local Union Constitution (ULUC) requires notices of the nomination meeting to be mailed to each member in good standing at that member's last known address no less than 15 and no more than 20 days prior to the nomination meeting. Investigators for the Department found that Local 773 hired [REDACTED] for the printing and mailing of the nomination notices. [REDACTED] mailed 3,561 nomination notices at a bulk rate. However, the bulk rate did not allow for mail to be returned when undeliverable. For this reason, the printer used its "Smart Address" software to identify and remove 152 addresses from the list that were deemed to be "undeliverable." Local 773 did not attempt to mail those 152 notices via first class mail although they knew that addresses were removed. Your address was among those removed from the nomination notice mailing, although your ballot was later successfully delivered to the same address that was deemed undeliverable. The nomination notice was also posted on the Union's website and Facebook page. Accordingly, to the extent that there may have been a violation of ULUC Article VI,

Section 1(b), there was no effect on the election because the notice was reasonably calculated to notify all members, in compliance with Section 401(e) of the LMRDA.

Additionally, you alleged that Local 773 improperly included unopposed candidates on the ballot and did not clearly inform members that they need not vote for an entire slate; instead one could vote for some candidates who were on a slate along with others who were not. You alleged that this violated Section 6.1 and 6.2 of the LIUNA Local Union Officer Election Guide and may have confused voters who supported some slate candidates but not all. Section 401(c) of the LMRDA requires a union to provide adequate safeguards to ensure a fair election. Investigators found that four members voted both for the slate and other candidates individually. The instructions on the ballot explained that if a member checked the box to vote for a slate, individual votes would not be tallied. Election officials could not explain why the ballot instructions did not specify that members “need not vote for a slate.” However, even if the individual votes which were not counted from those four ballots were included in the final tally, it would not have affected the outcome of any race. Additionally, Section 6.1 of the Election Guide specifies that the Union is not required to list any unopposed candidates on the ballot, however, there is no requirement that unopposed positions be *excluded* from the ballot. The Union explained that they listed unopposed candidates with their office on the ballot in the interest of promoting a fully informed membership. For these reasons, there was no violation that could have affected the outcome of the election.

You also alleged that “incumbent” candidates were given an unfair advantage because they were allowed to run as a slate. You alleged that the slate name, “Bigger, Better, Stronger,” was inherently discriminatory. You also stated that you did not know you could run on a slate. Section 401(c) of the LMRDA prohibits disparate treatment of candidates for union office. Investigators found that slates are permitted by the LIUNA Local Union Officer Election Guide, Section 6.2. The members of this particular slate chose the name because they believed it reflected what they wanted the union to become under their guidance after coming out of trusteeship. Election Chairman [REDACTED] explained that all candidates had the chance to proofread the ballot prior to printing and no candidate requested any changes. [REDACTED] also stated that any candidate who wanted to run on a slate could have done so any time before the final ballots were printed. No other candidate asked about running on a slate. Moreover, because this was the Local’s first election since coming out of trusteeship, there were no incumbent candidates. There was no violation.

Next, you alleged that some members were not sent a ballot. Section 401(e) of the LMRDA requires the union to provide all members with a reasonable opportunity to vote. The Department’s investigation found that the Union created 3,919 ballot packages to be mailed to all members in good standing. There were 139 ballot packages that were not mailed because the local either had no address or an incomplete address

for those members. There were an additional 208 ballot packages that were mailed but returned as undeliverable. If an undeliverable ballot package had a forwarding address, the Union re-mailed the ballot package to the forwarding address provided by USPS. Additionally, the Union attempted to find or update addresses for members by posting a request for addresses on its website and Facebook page, sending out a group text to members' cell phones for whom they needed a new address, and by asking field representatives to reach out to individual members in their territory or craft for whom the Union needed a new address. Thus, the Union made reasonable efforts to ensure all members in good standing were mailed a ballot. There was no violation.

You also alleged that the election judges failed to report the number of void ballots and unresolved challenged ballots with the election results. Section 401(e) of the LMRDA requires that the Union publish the results of the election. There is no requirement that the Union report void or challenged ballots. Election [REDACTED] explained that when the tally was completed, he called each candidate to tell them the election results and posted the results on the door of the Union office and at the front counter of the Union. The results were also posted on the local's website and Facebook page the following day. On June 9, 2019, Orrill delivered an oral report on the election results at the monthly membership meeting. The total number of votes for each candidate were provided. There was no violation.

You alleged that Local 773 violated Article VI, Section 2(j) of its Constitution when it did not allow for members to vote on the date, time, and place of balloting, and violated Section 5.2 of the LIUNA Election Guide when the election judges failed to certify that no election was required for the uncontested races. Section 401(e) of the LMRDA requires that the Union conduct the election in accordance with its constitution and bylaws so long as they are not inconsistent with the requirements of the LMRDA. Investigators found that Local 773 was under Trusteeship, in accordance with Section 302 of the LMRDA, at the time of the June 2019 election. Because of the trusteeship, members did not vote on Union matters at the monthly informational meetings. At the May informational meeting, [REDACTED] announced which candidates were uncontested and would be elected by acclamation. Additionally, the uncontested races were certified when the final election results were posted. There was no violation.

Your additional allegations were determined to be either not properly exhausted or not covered by the LMRDA.

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 in this matter.

Sincerely,



Brian A. Pifer  
Chief, Division of Enforcement

cc: Terry O'Sullivan, General President  
Laborers International Union of North America  
905 16<sup>th</sup> Street, NW  
Washington, DC 20006

Jerry Womick, Business Manager  
Laborers Local 773  
5102 Ed Smith Way  
Marion, IL 62959

Beverly Dankowitz, Associate Solicitor for Civil Rights and Labor-Management