



# U.S. Department of Labor

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Enforcement Actions

### Recent Civil Enforcement Actions

On January 28, 2003, Local 54 of the Hotel Employees and Restaurant Employees (HERE) agreed to rerun the January 18, 2002 election of officers that the Department of Labor supervised pursuant to an order from the United States District Court for the District of New Jersey. The Department advised HERE Local 54 that it would not certify the supervised election because the incumbent president campaigned for himself and his slate on a union-sponsored radio program. In entering into the agreement for another supervised election, HERE Local 54, which represents approximately 15,000 workers in Atlantic City, New Jersey, admitted to no wrongdoing. The OLMS Philadelphia District Office will supervise the new election for all positions won by the incumbent slate by March 27, 2003.

On January 24, 2003, a Stipulation and Order of Settlement between the United States Department of Labor and Teamsters Local 174 was approved by the United States District Court for the Western District of Washington. After an investigation by the OLMS Seattle District Office, the Department filed suit against Local 174 seeking a new election for the offices of president, business manager, and trustee. The suit was based on the Secretary's finding that insufficient and inaccurate union records were used to determine voter eligibility in the protested election conducted on November 22, 2000. The Order states that the Secretary will supervise the next regularly scheduled election of officers by December 31, 2003.

On January 21, 2003, a complaint was filed in the United States District Court for the Eastern District of Pennsylvania against Local 57 of the Laborers International Union of North America (LIUNA), which represents some 2,800 members located in and around Philadelphia, Pennsylvania. The complaint resulted from an investigation by the OLMS Philadelphia District Office into the May 29, 2002 election of Local 57. It revealed that the union failed to comply with a reasonable request to distribute campaign literature. The complaint seeks a new election under OLMS supervision for the one position that was contested.

On January 16, 2003, a complaint was filed in the United States District Court for the District of Minnesota against District Lodge 143 of the International Association of Machinists and Aerospace Workers (IAMAW), which represents some 21,800 members predominately employed by Northwest Airlines headquartered in Minneapolis, Minnesota. The complaint resulted from an

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investigation by the OLMS Minneapolis Resident Office into the district lodge's August 13, 2002 election. It revealed that six locals failed to hold an election, eleven locals failed to send out an election notice, and 25 locals sent out an inadequate election notice. The complaint seeks a new election under OLMS supervision.

On January 7, 2003, a stipulation and order of settlement between the U.S. Department of Labor and the Bremerton Metal Trades Council (BMTC) was approved by the United States District Court for the Western District of Washington. After an investigation by the OLMS Seattle District Office, the Department filed suit against the BMTC for not allowing a member of an affiliated American Federation of Government Employees (AFGE) local to run for office because the AFGE national union is not affiliated with the Metal Trades Department of the AFL-CIO. The case was in the district court on remand from the Ninth Circuit Court of Appeals which ruled for the Department on the jurisdictional issues raised by the BMTC but remanded it for further factfinding on the election issues. Under the terms of the settlement, OLMS will supervise a new election of officers by July 31, 2003.

On January 3, 2003, a Stipulation of Settlement between the U.S. Department of Labor and Local 732 of the American Postal Workers Union was approved by Magistrate Judge Jeff Kaplan of the United States District Court for the Northern District of Texas. The stipulation requires the local union to open and count 75 ballots cast by eligible members that were not included in the tally completed on May 19, 2001. After the tally of these 75 ballots is completed and the results of the May 19, 2001 officer election are revised accordingly, OLMS will supervise new nominations and a new election for all Local 732 offices affected by the 67 votes that were cast by ineligible persons. OLMS will complete this supervised election on or before May 31, 2003.

On December 20, 2002, in the United States District Court for the District of Puerto Rico the Department filed suit against the Sindicato de Guardias in Rio Piedras, Puerto Rico. The lawsuit seeks a new election for the three officer positions for which three members were improperly disqualified from running. The three members were disqualified on the basis of union discipline that had been imposed in violation of Section 101(a)(5) of the Labor-Management Reporting and Disclosure Act of 1959, as amended. The challenged election in this 209 member union was investigated by the OLMS Puerto Rico Resident Investigator Office.

On October 22, 2002, the U.S. District Court for the District of Hawaii found that IBEW Local 1357 did not violate Title IV of the LMRDA by disqualifying a member in good standing as a candidate for office in the local's February 16, 2001 election of officers. In 1999, the IBEW had found Local 1357 Business Manager/Financial Secretary George Waialeale guilty of spending more than \$80,000 of union funds without proper documentation and had barred him from holding office for a period of five years. The Department of Labor argued that the discipline imposed by the IBEW violated Title I of the LMRDA because Waialeale had not been served with specific written charges, and, consequently, had not had a reasonable time to prepare his defense and had not had a full and fair hearing. The court concluded that the union had provided charges that were sufficiently specific and that the Department had failed to show that Waialeale had been prejudiced.

On October 4, 2002, in the U.S. District Court for the Eastern District of Pennsylvania, the Secretary filed a civil suit seeking a new election for the office of branch president of Local 308 of the National Postal Mail Handlers Union after an investigation established that a candidate for office in the February 2002 election utilized U.S. Postal Service facilities for printing her campaign literature. The literature was distributed to at least 50 members in a race decided by a 12-vote margin. The case was brought following an investigation by the OLMS Philadelphia District Office.

On September 30, 2002, in the United States District Court for the Southern District of New York, the court granted the Secretary's motion to dismiss the lawsuit brought by members of Teamsters Local 97 contesting the Department's rejection of their complaint of Local 97's December 2000 officer elections. The Department denied the election complaint because of the complainants' failure to exhaust internal union remedies. The court adopted the Department's position that the complainants were required to appeal the decision of the Teamsters Joint Council within fifteen days to the General Executive Board as required by the international union's constitution. The court rejected the complainants' arguments that the appeal requirement was unreasonably burdensome and too long and complex to follow.

On September 13, 2002, in the United States District Court for the Northern Division of California, Judge Ronald M. Whyte granted the Secretary's motion for summary judgment, declared the December 2, 2000 election conducted by Machinists Local Lodge 2228 null and void, and ordered the union to conduct a new election for the office of president under the supervision of the Secretary of Labor. The case was brought after an investigation by the OLMS San Francisco District Office revealed that the successful candidate for the office of president was ineligible to run. During the OLMS investigation, the union installed the losing candidate as president. The International Association of Machinists subsequently placed Local Lodge 2228 in trusteeship and conducted a new election not under the supervision of the Secretary. The court held that the Secretary's right to a supervised election cannot be defeated by any subsequent independent action of the union, whether it occurs before the Secretary files an action or afterward.

On August 9, 2002, suit was filed in the United States District Court for the District of Columbia against Postal Workers Local 140, for failing to file its annual financial report. Local 140 has filed its annual report late every year for the last eight years and during the last six years it has filed, on average, 357 days late. It has failed to file the report that was due on March 31, 2002, despite reminders by OLMS and warnings that failure to file would result in legal action. The complaint seeks an order compelling Local 140 to file its annual financial report for fiscal year 2001 and enjoining it from further violating the reporting provisions of the Labor-Management Reporting and Disclosure Act.

On June 27, 2002, the United States District Court for the District of New Jersey granted the Department's motion for summary judgment concerning the April 2000 election of officers in the North Jersey Area Local of the American Postal Workers Union. The court found that the local violated Section 401(g) of the LMRDA by making two mailings to the membership at union

expense and on union letterhead. One mailing was laudatory of the incumbents and critical of an opposing candidate and the other "provided gratuitous and damaging material" about the opposition candidate. The court held that all members of the opposing candidate's slate are entitled to a new election under the supervision of the Secretary of Labor. The court case resulted from an investigation by the OLMS New York District Office.

On June 14, 2002, a complaint was filed in the United States District Court for the Northern District of California against the California Nurses Association. The complaint resulted from an investigation by the OLMS San Francisco District Office of the union's May 16, 2001, election which disclosed that ballots were not mailed to approximately 73 members in good standing while 11 members not in good standing were permitted to vote. Also, the union's procedure for obtaining a duplicate ballot was not adequately communicated to the membership. The complaint seeks a new election for the position of vice president under OLMS supervision.

On June 6, 2002, pursuant to a settlement agreement, the United States District Court for the Eastern District of Pennsylvania ordered United Automobile Workers Local 813 in Philadelphia to hold a new election of officers under the supervision of the Secretary of Labor. The case resulted from an investigation of the union's May 1, 2001, election by the OLMS Philadelphia District Office.

On May 2, 2002, suit was filed in the United States District Court for the Eastern District of North Carolina, against Fayetteville Area Local 984 of the American Postal Workers Union following an investigation by the OLMS Nashville District Office. The investigation disclosed that the incumbent and winning candidate for president used in his campaign literature material contained in union files that had been written by the complainant and was not intended for publication. The suit seeks a new election for the office of president.

On April 9, 2002, an election complaint against American Federation of Government Employees Council 169 was transmitted to the Chief Administrative Law Judge, U.S. Department of Labor. The complaint resulted from an investigation by the OLMS Washington District Office into the council's October 28, 2000 officer election. That investigation disclosed that the council denied the membership of Local 62, a council affiliate, the opportunity to vote in the election when the council failed to count the 478 votes cast by the Local 62 delegate, which may have affected the outcome of one vice president position.

On February 26, 2002, a Stipulation of Settlement between the U.S. Department of Labor and Machinists Local 33-S was filed in the United States District Court for the District of Maryland. Pursuant to this Stipulation, OLMS will supervise new nominations and a new election for Local 33-S officers. The Department had filed suit in December 2001 against the local after an investigation by the OLMS Washington District Office revealed that the local's application of an unreasonable meeting attendance requirement excluded approximately 90% of the members from running for office. In addition, the meeting attendance requirement was applied retroactively and not uniformly applied. As provided in the Stipulation, the local's meeting attendance

requirement will not be enforced during the OLMS-supervised election.

On February 19, 2002, the United States Court of Appeals for the First Circuit ruled against the Secretary of Labor in *Thomas Harrington, et al. v. Chao*. Harrington had brought suit against the Secretary for failing to take action on his election complaint filed under Title IV of the LMRDA. The district court dismissed the suit, but on appeal the First Circuit held that the Secretary's statement of reasons for refusing to file suit against the New England Regional Council of Carpenters was not sufficient "to permit meaningful judicial review." At issue is whether the Regional Council is in fact a local union rather than an intermediate body and therefore required to elect its officers by secret ballot among all members in good standing rather than by delegates elected by the members. The court remanded the case for the Secretary to more fully explain the Department's position in light of the LMRDA regulations and prior case law.

On January 23, 2002, the United States District Court for the Northern District of Indiana granted the Secretary's motion for summary judgment and ordered Steelworkers Local 1014 to rerun its April 24, 2000, officer election under the supervision of the Secretary. An investigation by the OLMS Chicago District Office determined that Local 1014's application of a meeting attendance requirement barred more than 98% of its membership from running for office.

On January 18, 2002, in the United States District Court for the Northern District of Texas, a complaint was filed against Local 732 of the American Postal Workers Union. The complaint resulted from an investigation by the OLMS Dallas District Office into the local's May 19, 2001, mail ballot officer and delegate election. That investigation disclosed that the union denied eligible members the right to vote, in that the union failed to mail ballots to all eligible members and failed to count all ballots that had been returned by eligible members to the post office prior to the deadline. The investigation also found that the union improperly permitted ineligible members to vote in violation of the union constitution and bylaws. The complaint seeks to hold a new election for 11 officer and 39 delegate positions under OLMS supervision.

On December 28, 2001, a complaint was filed in the United States District Court for the District of Maryland, against Local S-33, International Association of Machinists. The complaint resulted from an investigation by the OLMS Washington District Office of the local's July 28-29, 2001 and October 25, 2001 elections of officers. Local S-33 is charged with violating section 401(e) of the Labor-Management Reporting and Disclosure Act (LMRDA) by applying an unreasonable meeting attendance requirement which called for attendance at 50% of the regular membership meetings in the twelve months preceding nominations. The requirement excluded approximately 90% of the members from running for office, was applied retroactively, and was not uniformly applied. Members were also not given sufficient notice that the requirement would be applied. The complaint seeks new nominations and a new election under OLMS supervision.

On December 21, 2001, a complaint was filed in the United States District Court for the Eastern District of Pennsylvania against United Automobile Workers Local 813. The complaint resulted from an investigation by the OLMS Philadelphia District Office into the local's May 1, 2001 election which disclosed that the local failed to mail notices of election to members at their last known

home addresses. The complaint seeks a new election for all offices under OLMS supervision.

On December 7, 2001, in the United States District Court for the Western District of Washington, a complaint was filed against Teamsters Local 174 seeking to set aside the local's November 21, 2000, election of secretary-treasurer, president, and trustee. The case involves the denial of the voting rights of new members for whom the employer had not deducted sufficient dues and initiation fees or for whom adequate amounts had been deducted but not forwarded to the union. Of the money received by the union, not all deductions were posted to membership records, rendering some members ineligible to vote. In addition, other members were permitted to vote who were not current in dues or initiation fees, an unequal application of the union's constitution which states that eligibility to vote is dependent on payment of dues and fees. The complaint was filed following an investigation by the OLMS Seattle District Office.

On November 9, 2001, Judge Donald C. Nugent of the United States District Court for the Northern District of Ohio ordered a new election under OLMS supervision for treasurer and two trustees in Bakery Workers Local 19. An investigation of the local's February 2000 election by the OLMS Cleveland District Office had revealed that the winning candidates for those positions were ineligible to hold office because they did not meet working at the trade candidacy requirements.

On October 30, 2001, Chief Judge David Larimer of the United States District Court for the Western District of New York signed an order accepting the parties' settlement agreement to have OLMS supervise the next regularly scheduled election of officers of Auto Workers Local 1097. An investigation of the local's 1999 election conducted by the OLMS Buffalo District Office revealed that the local failed to mail election notices to all members. Approximately 750 retired members did not vote and did not have access to election information through other channels, such as posted notice in the work place. With the closest margin at 504 votes, all offices were affected by this violation.

On October 9, 2001, the United States District Court for the District of New Jersey granted the Secretary of Labor's Motion for Summary Judgment declaring Hotel Employees and Restaurant Employees Local 54's June 25, 1999 election of officers null and void and ordering an immediate new election under the Secretary of Labor's supervision. The court ruled that the union's failure to make reasonable efforts to maintain current addresses of members and to correct known invalid addresses as well as not mailing election notices to all members constituted a violation of section 401(e) of the Labor-Management Reporting and Disclosure Act. Also, the union's failure to update and correct members' addresses prior to the ballot mailing deprived members of their right to vote under section 401(e). Lastly, the incumbents' use of membership lists created by union representatives in the course of their union employment for campaigning without advising other candidates of the lists' availability violated the nondiscrimination provision of section 401(c). The OLMS Philadelphia District Office conducted the investigation and will conduct the supervised election of this 15,000 member local based in Atlantic City.

On September 7, 2001, the United States District Court for the Virgin Islands approved a Stipulation of Settlement and Order between Steelworkers Local 8526 and the U.S. Department of Labor. The Stipulation of Settlement and Order calls for the local to conduct new nominations and an election for all officer positions, under the Department's supervision, prior to March 14, 2002. The Department had filed suit in November 1997 seeking to overturn the local's April 1997 election after an investigation by the OLMS Gulf Coast Region established that the union failed to provide proper notice of election and that the union's meeting attendance requirement rendered all but 3% of the membership ineligible for office.

On September 5, 2001, a complaint was filed in the United States District Court for the District of Arizona against Transport Workers Local 580. The complaint resulted from an investigation by the OLMS Los Angeles District Office into the local's November 1, 2000 election which disclosed that the local failed to mail notices of election to members at their last known home address and failed to accurately count the votes that were cast. The complaint seeks a new election under OLMS supervision.

On August 30, 2001, a complaint was filed in the United States District Court for the Western District of Pennsylvania against Plumbers Local 354. The complaint resulted from an investigation by the OLMS Pittsburgh District Office into the local's April 7, 2001 election which disclosed that, during the two week period prior to the election, the incumbent business manager, along with business agents, campaigned to members at several work sites while on time paid for by the union. The complaint seeks a new election for four positions under OLMS supervision.

On August 15, 2001, the United States District Court for the District of Hawaii ruled for the Department of Labor in a subpoena enforcement action involving Teamsters Local 996 and an OLMS officer election investigation under the Labor-Management Reporting and Disclosure Act (LMRDA). The court reversed the magistrate's order to quash the Department of Labor's subpoena of election ballots. The court ruled that nothing in LMRDA section 601 or 402 limits the scope of the Secretary's investigatory reach and that the Secretary's demand to review the ballots was not irrelevant or immaterial to the investigation.

On August 14, 2001, the United States District Court for the District of South Carolina granted the Secretary of Labor's motion to dismiss a complaint filed by Leonard Riley, Jr. and Charles Brave, winning candidates for trustee in a January 28, 2000, election held by International Longshoremen's Association Local 1422. They had sought to enjoin the International Union from requiring Local 1422 to conduct a new election. The Secretary of Labor had filed suit on June 7 seeking a new election for the office of trustee and had intervened in the private civil action to protect the Secretary's exclusive jurisdiction over such LMRDA Title IV matters.

On July 23, 2001, a complaint was filed in the United States District Court for the Northern District of Illinois against District Lodge 141 of the International Association of Machinists. An investigation by the OLMS Pittsburgh District Office determined that at least two insurgent candidates for the office of assistant general chairperson were improperly deprived of their opportunity for

candidacy. District Lodge 141 has 37,000 members nationwide who are airline baggage handlers. The OLMS investigation determined that the insurgents secured the nominations/endorsements from the required minimum of four local lodges, but the international president ordered that two of these nominations/endorsements be reconducted, contrary to the recommendation of his own investigator. The complaint seeks to require the union to validate the original endorsement results.

On June 14, 2001, suit was filed against the Southern California Professional Engineering Association (SCPEA) in the United States District Court for the Central District of California. The suit is the result of an investigation conducted by the OLMS Los Angeles District Office concerning SCPEA's December 20, 2000 election of officers, which disclosed that the union improperly disqualified the winning vice presidential candidate and improperly permitted an unqualified (and winning) candidate to run for executive board member-at-large. The suit seeks installation of the improperly disqualified vice presidential candidate to his office and new nominations and a new election for executive board member-at-large under OLMS supervision.

On June 7, 2001, a complaint was filed in the United States District Court for the District of South Carolina against Local 1422 of the International Longshoremen's Association (ILA). The complaint resulted from an investigation by the OLMS Atlanta District Office into the local's January 28, 2000 officer election, which disclosed that the local violated the international's constitution by permitting members who fell within the category of individuals employed in supervisory positions to run for and hold the office of trustee. The ILA has ordered Local 1422 to conduct a new election for the office of trustee but a new election has yet to be conducted. The complaint therefore seeks a new election for that office under OLMS supervision.

On June 4, 2001, a complaint was filed in the United States District Court for the District of Hawaii against Local 1357, International Brotherhood of Electrical Workers seeking a new election for business manager-financial secretary under the supervision of OLMS. The complaint resulted from an investigation by OLMS' Honolulu Resident Investigator Office which disclosed that the local violated members' rights to support the candidate of their choice by disqualifying a member as a candidate on the basis of discipline that had been imposed in violation of Section 101(a) (5) of the Labor-Management Reporting and Disclosure Act.

On May 11, 2001, a complaint was filed in the United States District Court for the Northern District of California against Local Lodge 2228 of the International Association of Machinists. The complaint resulted from an investigation by the OLMS San Francisco District Office into the lodge's December 2, 2000 election which disclosed the union permitted an ineligible candidate to run for president. The complaint seeks a new election under OLMS supervision.

On May 4, 2001, a complaint was filed in the United States District Court for the Eastern District of California against Local 442 of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry. The complaint resulted from an investigation by the OLMS San Francisco District Office into the local's December 16, 2000 election which disclosed a candidate

violated the local's bylaws when he campaigned for office by "meeting and greeting" voters on election day within a prohibited area. The complaint seeks a new election under OLMS supervision for one local union officer position.

On April 26, 2001, the United States District Court for the Northern District of Texas granted the Secretary's motion for summary judgement and ordered Local 311 of the National Postal Mail Handlers' Union to rerun their 1999 officer election under the supervision of the Secretary. The Department's complaint in this case charged that the Mail Handlers improperly disqualified a member from candidacy based on the member's failure to remit dues for one month during the two-year period prior to nominations. However, as an investigation by the OLMS Dallas District Office disclosed, the member had earnings during the month in question and was subject to a collective bargaining agreement between the Postal Service and the union which provided for dues check off. The court agreed with the Department's position that, under the law, the failure of the Postal Service to deduct dues could not be used to declare the member ineligible to run for office.

On March 30, 2001, a complaint was filed in the United States District Court for the District of New Jersey against the North Jersey Area Local of the American Postal Workers Union. The complaint resulted from an investigation by the OLMS New York District Office into the local's April 18, 2000 election which disclosed the union used union resources to promote incumbent candidates. The complaint seeks a new election under OLMS supervision for nine local union officer positions.

On March 29, 2001, the United States District Court for the Eastern District of Missouri issued an order agreeing in part with the Secretary of Labor's complaint challenging 1998 elections in Local 50 of the Service Employees International Union. The complaint challenged both the reasonableness and application of a petition requirement for nomination to office. The court held that the requirement itself was reasonable, but agreed that it was not applied fairly and directed the Department to submit a proposed order for new elections under the supervision of the Secretary. The OLMS St. Louis District Office conducted the investigation leading to the complaint and will supervise any remedial election.

On March 28, 2001, the United States District Court for the District of Columbia granted the Secretary of Labor's motion for summary judgement and declared the Amalgamated Transit Union's (ATU) 1998 election of international officers void. The complaint charged that the ATU imposed an unreasonable candidacy qualification when it applied a meeting attendance requirement for the nomination and election of delegates to its 1998 international union convention. The OLMS Washington District Office conducted the investigation leading to the complaint and will supervise the remedial election ordered by the court.

On March 27, 2001, the United States District Court for the Western District of Michigan approved an agreement between the Department of Labor and Local 1106 of the International Brotherhood of Electrical Workers in settlement of the Department's December 2000 suit against the local. The Department filed suit against Local 1106 based on an investigation by the OLMS Detroit District Office, which found that in the local's June 2000 officer election, the incumbent

business manager/financial secretary used union resources to produce campaign mailings. Under the Stipulation of Settlement and Order issued by the court, the Department will supervise an immediate new officer election in Local 1106 and certify the names of those elected to the court.



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