



September 21, 2011

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to the complaint that you filed with the United States Department of Labor on March 31, 2011, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA), 29 U.S.C. §§ 481-484, occurred in connection with the election of officers of the International Brotherhood of Teamsters, Local 743, the tally for which concluded on December 28, 2010.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded that your complaint failed to follow the protest procedures set forth in the Local 743 Election Rules. Therefore, Local 743 properly considered your protest to be untimely and the allegations in your complaint are not properly before the Department. As a result, the Department cannot institute any legal action with respect to these allegations.

Section 402(a) of the Act requires that the Department may only consider a complaint if the member filing the complaint has properly "exhausted the remedies available under the constitution and bylaws" of the local union and any parent body. 29 U.S.C. § 482(a)(1); 29 CFR § 452.135(a). The Local 743 Election Rules have clear instructions for when protests may be brought:

All other protests except post-election protests must be filed within forty-eight (48) hours of the time the complainant(s) knows or should know of the alleged violation and shall be filed in accordance with the Bylaws of Local 743, IBT.

Local 743 Election Rules for the December 20, 2010 Election, Section 11(B). This mirrors a similar provision in the International Brotherhood of Teamsters Constitution. IBT Const. Art. XXII, § 5(a).

You first alleged that Local 743 violated the Act by failing to maintain an adequate membership roster. During your hearing before Teamsters Joint Council 25, you asserted that there were over 1900 ballots that were returned as undeliverable out of Local 743's nearly 10,000 members, and that even when factoring in subsequent mailings to correct addresses and duplicate ballot requests, over 10% of the members were not provided ballots and thus were denied the right to vote.

You first complained about this issue by letter dated December 30, 2010, two days after the final tally of ballots was completed. The Department conducted an investigation of this allegation. This investigation found that there were three collections of undeliverable ballots - which occurred on December 6, December 8, and December 13, 2010 - prior to the start of the tally process on December 20, 2010.

On December 17, 2010, the election officer sent an email to the heads of each of the slates, including you, detailing the number of undeliverable ballots that were collected and the names of those who attended the collections as an observer. The email states, and you acknowledged, that you were present for each of these collections. Further, in interviews conducted by the Department, you acknowledged that you knew relatively early in the balloting process, and certainly before the tally, that there was a sizable number of undeliverable ballots.

The issue of the large number of undeliverable ballots was clearly not a post-election issue, as all slates were informed about the number of undeliverable ballots by email on December 17, 2010, three days before the ballots were tallied. As such, per the Local 743 Election Rules, protests regarding this issue must have been filed no later than 48 hours after the December 17 email. As noted above, your first complaint regarding this issue was not filed until December 30, 2010. Accordingly, your protest was untimely filed with Local 743 and was procedurally defective, and the Department may not consider, or file legal action based on, the substance of the allegation.

The second allegation in your complaint contains similar procedural defects. In this allegation, you asserted that candidates [REDACTED] and [REDACTED] expended union funds for campaign purposes, in violation of the Act. You asserted that you learned about this alleged violation at the December 6, 2010 membership meeting, when a member asked a question about a large expenditure on a dinner at a restaurant that union members attended. Accordingly, a protest with regard to this issue should have been filed within 48 hours after you learned of it, or by December 8, 2010. You did not raise the issue until your December 30, 2010 complaint to Local 743. Accordingly, the Department may not consider, or file legal action based on, the substance of the allegation. *See* 29 U.S.C. § 482(a)(1); 29 CFR § 452.135(a).

For the reasons set forth above, it is concluded that the Department cannot institute legal action with respect to your allegations, and I have closed the file in this matter.

Sincerely,

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Chief, Division of Enforcement

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