



January 30, 2012

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to your complaint received on October 3, 2011, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA) occurred in connection with the election of officers of the Alabama Postal Workers Union (State Association), conducted on June 5, 2011.

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

You alleged that Ken George improperly voted as a local delegate, rather than as a State delegate, in violation of the State Association Constitution. Section 401(d) of the LMRDA provides that officers of intermediate bodies, such as the State Association, shall be elected either by secret ballot among the members in good standing or by labor organization officers representative of such members who have been elected by secret ballot. *see* also 29 C.F.R. § 452.123. Section 401(e) of the LMRDA also requires unions to conduct their elections in accordance with their constitution. *See* Article VI, Representation; Article VII, Officers. Article VI, section 8, of the State Association Constitution prohibits any state officer from voting for his or her local.

The investigation disclosed that George held dual positions at the time of the election. As District 4 Vice President of the State Association, George was automatically a delegate who votes as a state delegate. Also, George was the President of Local 715, and as such, was the head of the Local 715 delegation. However, George did not vote as a local delegate. George's name was on the State Delegates' credentials list, which was certified by the State Secretary Treasurer, as required under the Constitution. Further, the Election Committee Chairman took a roll call, asking each delegate for which body he or she intended to vote; George stated he would be voting as a state delegate. Although you allege that George's expenses were paid by his local, even if this was substantiated, it would not constitute evidence that he voted as a local delegate. There was no violation.

You alleged that [REDACTED], President of Local 303, denied his delegation the right to block vote. Local 303 Bylaws and the State Association Constitution are silent on the issue of block voting, where an entire delegation casts all of its ballots for one candidate. In any event, the past practice at intermediate conventions has been to permit block voting, but only when the delegation vote is unanimous. President [REDACTED] did not agree to block vote, thereby foreclosing a unanimous voting option. There was no violation.

You alleged that [REDACTED] reduced the number of ballots to which each member of his delegation was entitled. Section 401(e) of the LMRDA requires that elections be conducted in accordance with the constitution and bylaws of the union insofar as they are not inconsistent with the provisions of Title IV. Article VI, section 1, of the State Constitution provides that each local shall be entitled to one vote for each ten members, or a fraction thereof. However, Local 303 Bylaws and the State Association Constitution are silent on the manner in which ballots should be divided among the delegates. Local 303 was entitled to 83 votes and elected 19 delegates, only 16 of whom attended the convention. Rather than divide the 83 votes by 16, which would have given each delegate, including [REDACTED] five ballots to cast, [REDACTED] instead divided the 83 votes by 19, the number of delegates elected, which gave each delegate, including [REDACTED] four ballots. [REDACTED] cast the ballots on behalf of the absent delegates, garnering 16 ballots, comprised of the four to which he was entitled as a delegate and another twelve ballots belonging to the absent three delegates. Casting ballots in this manner does not violate any specific prohibition in the LMRDA. Further, because Local 303's Bylaws and the State Association Constitution do not address the issue on how to divide ballots among delegates, [REDACTED] actions were not inconsistent with the Constitution and thus cannot be deemed to violate Section 401(e) of the LMRDA. There was no violation.

You alleged that [REDACTED], President of Local 323, similarly retained a larger number of ballots that he distributed to the remaining members of his delegation. The investigation disclosed that Local 323 was entitled to cast 35 votes. President [REDACTED] provided one ballot for each of the seventeen delegates, including himself, then divided the remaining 18 ballots between himself and his vice president. Local 323's Constitution and Bylaws are silent on the manner in which ballots should be divided among delegates, and therefore President [REDACTED] method for dividing the ballots cannot be said to violate the LMRDA. There was no violation.

You alleged that [REDACTED], a member of Local 303's delegation, should not have collected the ballots, a task you believe is the rightful province of the election committee. Section 401(c) of the LMRDA mandates that adequate safeguards to insure a fair election shall be provided. The investigation disclosed that [REDACTED] collected the folded ballots of all Local 303 delegation members, in full view of the election committee and all attendees. In order to ensure that adequate safeguards were in place

to ensure a fair election, neither [REDACTED] nor the election committee should have collected any delegation's voted ballots; rather, the union should have provided a ballot box in which each member of a voting delegation could deposit his or her voted ballot. Although [REDACTED] collection of the ballots violated the adequate safeguards provision of the LMRDA, it cannot be said that this violation may have affected the outcome of the election, as the collection was made in full view of all attendees and there is no evidence that [REDACTED] opened any of the voted ballots. There was no violation that may have affected the outcome of the election.

For the reasons set forth above, your complaint to the Department is dismissed, and I have closed the file in this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

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