



February 1, 2012

Dear [REDACTED]

This Statement of Reasons is in response to your complaint filed on December 1, 2010 alleging that a violation of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) occurred in connection with the election of officers conducted by the Union Independiente de Empleados Telefonicos (UIET) on May 5-6, 2010.

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

You alleged that employees who were not eligible to vote were allowed to vote in the election after being manually added to the voting list and that these votes were not challenged by election officials. Section 401(e) of the LMRDA provides the right to vote to union members in good standing. Article XI, Section 2 of the UIET Constitution states that "the people who are dues paying members of the UIET at the time of the election and are up to date in their dues will have the right to vote."

The investigation revealed only one ineligible voter was allowed to participate in the election. [REDACTED] was terminated from his job on May 1, 2010, prior to the May 5-6, 2010 election of officers. As a result of his termination, [REDACTED] was no longer a member and was ineligible to participate in the election. However, [REDACTED] voted in the election. The investigation did not uncover evidence that other ineligible members were allowed to vote. The investigation did reveal that member [REDACTED], who was said to have been terminated and ineligible to vote, was, in fact, eligible to vote because her employment terminated after the election on June 1, 2010. Thus, the violation of the LMRDA affected only one vote which was insufficient to have affected the outcome of any race in the election.

You alleged that some employees voted twice using different names. Section 401(c) of the LMRDA provides that adequate safeguards to insure a fair election shall be

provided. Pursuant to this provision, a labor organization's wide range of discretion regarding the conduct of elections is circumscribed by a general rule of fairness. The investigation, which included a review of the eligibility list and the ballots, did not reveal any evidence that any member voted more than once. There was no violation of the LMRDA.

You made a number of allegations concerning the union's handling of challenged ballots and you questioned whether the challenged ballots were properly counted. Section 401(e) of the LMRDA provides that every member in good standing shall have the right to vote for the candidate or candidates of his choice.

The investigation included a review of the union's actions and procedures with respect to challenged ballots. The investigation revealed that 85 challenged ballots were cast but the union made no determination of the validity of the ballots. Consequently, the union did not include any of the challenged ballots in the ballot tally. In its investigation of these allegations, the Department of Labor verified the eligibility of each member who voted a challenged ballot. The investigation included a comparison of the voter eligibility list with the sign-in lists of those voting challenged ballots. The Department also compared the names on the challenged ballots sign-in lists to the voter sign-in lists from each of the polling sites and confirmed that those voting challenged ballots had not otherwise voted in the election.

The investigation determined that 65 of the challenged ballots were cast by members who were on the eligibility list and that these ballots should have been included in the tally. The Department determined that the remaining 20 challenged ballots should not have been included in the tally because six of the ballot envelopes did not contain a ballot; seven did not contain any identification on the envelope; and seven could not be identified by the Department as eligible voters. A subsequent recount of the ballots by the Department, which included the 65 valid challenged ballots, did not affect the outcome of the election for any office. The violation of section 401(e) did not affect the outcome of the election.

You alleged that photocopies of ballots from one polling site were found in the ballot box at other polling sites and concluded that there were "contaminated" ballot boxes. Section 401(c) of the LMRDA provides that adequate safeguards to insure a fair election shall be provided. Pursuant to this provision a labor organization's wide range of discretion regarding the conduct of elections is circumscribed by a general rule of fairness. The investigation revealed that photocopies of ballots were made at a few of the polling sites to accommodate members voting outside their assigned polling site, in those instances where the polling site did not have enough original ballots. Some of these polling sites made plain paper copies of the original ballot, while others used

colored paper to match the color of the original ballot. There was no evidence of ballot fraud or tampering. There was no violation.

You alleged that the local failed to mail the notice of election within 15 days of the election. Section 401(e) of the LMRDA provides that not less than fifteen days prior to the election, notice shall be mailed to each member at his last known home address. The investigation revealed that the union mailed the notice to members' last known home addresses, but the notice was mailed less than 15 days prior to the election. Although a violation occurred when the election notice was mailed late, the investigation did not establish that the late notice affected the election outcome for any race.

For the reasons set forth above, the Department has concluded that there were no violations of Title IV of the LMRDA affecting the outcome of the election, and I have closed the file regarding this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

cc: Edward Sanchez-Gautier, President
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