



March 6, 2009

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed on March 31, 2008, with the Department of Labor alleging that a violation of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U.S.C. §§ 481-484, occurred in connection with the election of officers conducted by the Amalgamated Transit Union, Local 19 ("ATU" or "local") on December 11, 2007.

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

You alleged that campaign rules for the general election were not fully explained in writing. The Department's investigation established that there were no written election rules. Neither the ATU Constitution, the local bylaws nor the LMRDA require that campaign rules be in writing. The investigation further revealed that the local did not have a past practice of putting campaign rules in writing other than the combined nominations and election notice. The combined notice of nominations and election, however, did appear in the fall 2007 edition of the local's newsletter. There was no violation of the LMRDA.

You alleged that the nomination notice did not specify the offices to be filled or who would be elected delegate by virtue of their office. Section 401(e) of the LMRDA requires that a reasonable opportunity shall be given for the nomination of candidates. To satisfy this requirement, unions must give timely notice of nominations reasonably calculated to inform all members of the offices to be filled in the election as well as the date, time, places and form for submitting nominations. 29 C.F.R. § 452.56. The investigation revealed that you were involved with the preparation of the nomination notice, which stated that nominations would be taken for all ATU 19 officer and executive board positions on November 13, 2007, at the regular monthly membership

meeting. This notice does not state the time, place, and method of nominations and does not list the offices to be filled. However, the investigation established that all members knew the location of the monthly meeting. The location of the monthly meeting was listed in the fall 2007 edition of the local's newsletter, and all offices and names of officers were posted on the last page of the newsletter. The investigation did not reveal any evidence that any member did not have a reasonable opportunity to nominate a member for office or to be nominated as a candidate for office because of defects in the notice. Inasmuch as all members had a reasonable opportunity to nominate or be nominated for office, there was no violation affecting the outcome of the election.

You alleged that the local did not advise candidates about "eligibility requirements" under section 504 of the LMRDA which may have allowed ineligible candidates to hold office. Section 504 of the LMRDA prohibits persons who have been convicted of certain crimes from holding union office or serving in certain union positions for a period of 13 years. 29 U.S.C. § 504. The Act does not require a union to inform candidates about section 504's prohibitions against certain persons from holding office or employment with a labor organization. In any event, the investigation revealed that none of the officers elected were prohibited from holding office by section 504. There was no violation of the Act.

You alleged that the election notice did not list the specific offices to be filled, which offices are delegate positions to the convention, the location of the polling sites, or the time the voting would occur. Section 401(e) of the LMRDA requires that an election notice shall be mailed to each member at his last known address at least 15 days prior to the election. The notice must specify the date, time and place of the election and of the offices to be filled, and it must be in such form as to be reasonably calculated to inform the members of the impending election. 29 C.F.R. § 452.99. The investigation established that the election notice was deficient in the manner you alleged. You discovered that the election notice did not comply with the Department of Labor's publication, "Conducting Local Union Officer Elections," and informed the local's executive board. As the financial secretary-treasurer, the executive board instructed you to mail a corrected notice to the members. You mailed a corrected notice which cured any deficiencies from the first notice. The investigation did not reveal any evidence that any member failed to vote or participate in the election because of the deficiency in the original notice. There was no violation of the LMRDA.

You alleged that campaigning occurred during union membership meetings which were held in a room adjacent to the room used for voting. You alleged that discussions at each of three meetings held on election day could have influenced voters. Specifically, you alleged that President Jeanna Lanucha read a report that said she looked forward to working with the new executive board. You asserted that Lanucha's

statement implied that members should vote for the challengers rather than the incumbents.

The investigation revealed that Lanucha, the incumbent president, was unopposed for the office of vice-president in the instant election. As president, she chaired three membership meetings that were held on election day. The investigation revealed that members had to enter the room used for voting through the meeting room. During periods of voting, the door to the voting room was closed. When interviewed, Lanucha acknowledged that while reading a union report at the membership meetings she told the members that she looked forward to working with the new executive board. She further stated she was not encouraging members to vote for the challengers. The investigation included interviews of 10 of the 13 candidates running for office and none said that they could hear Lanucha's report while they were voting. Also, 22 members, out of 85 members who voted, were interviewed regarding this allegation. Three of the 22 members remembered hearing Lanucha's comment regarding the new executive board, however, none of them thought it was campaigning. The Department reviewed Lanucha's statement and found that it is not a campaign statement because there were no references to any candidates, slates, or anything that would indicate that she was campaigning on behalf of any candidate or slate. It would appear that the statement was her final message as president, and she was merely expressing her intent to work with the new executive board, whoever was elected. There was no violation.

You alleged that Lanucha used union funds to create a flyer which she put in members' work mailboxes. The investigation established that the flyer, on union stationery, contained an update on union issues. It also contained, among other things, the following statement: "I look forward to working with this new team and will provide all of the assistance necessary to continued success of this local." Inasmuch as Lanucha was not running for re-election and was running unopposed for the office of vice-president, the Department views the above statement as an expression of her intent to work with the elected officers. The flyer does not constitute campaigning because it does not promote the candidacy of any person running for office. The flyer was primarily about union business matters and secondarily about expressing thanks to members for their support of the union and Lanucha in her last communication as president. There was no violation.

You alleged that Lanucha misinformed members at a meeting prior to nominations that only members with two years of continuous membership could run for office. You identified two members, [REDACTED] and [REDACTED], as being misinformed about the two years continuous membership requirement. The investigation included an interview with [REDACTED] who stated that [REDACTED] was nominated for representative-at-large, but withdrew her nomination when she was told that she was not eligible because of the two years of continuous membership requirement. [REDACTED] was

unavailable to be interviewed. The investigation established that the election notice that appeared in the fall 2007 edition of the local's newspaper accurately informed members that "nominees are required to have 2 years of membership in good standing. This requirement is waived if all nominees for a particular position do not meet that requirement." Lanucha did not misinform members. There was no violation.

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 regarding these allegations.

Sincerely,

Patricia Fox
Acting Chief, Division of Enforcement

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