



January 6, 2010

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the United States Department of Labor (Department) on June 16, 2009, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA or Act), 29 U.S.C. §§ 481-484, occurred in connection with the election of officers conducted by the New Jersey Rural Letter Carriers Association (NJRLCA or State Association), on May 3, 2009.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded regarding each of your allegations that no violation of the LMRDA occurred. This conclusion is explained below.

You alleged that the NJRLCA failed to provide adequate notice of the May 3, 2009 election of State Association officers. Specifically, you complained that NJRLCA failed to publish an official notice of nominations and election in its January 2009 newsletter. The NJRLCA is classified as an intermediate body labor organization that elects its officers during its annual convention, in an election among delegates who have themselves been elected by secret ballot, consistent with Section 401(d) of the LMRDA. *See* 29 U.S.C. § 481(d). As a labor organization that chooses its officers by a delegate convention, Section 401(f) requires NJRLCA to conduct the convention in accordance with its constitution and bylaws insofar as they are not inconsistent with the provisions of the LMRDA. *See* 29 U.S.C. § 481(f) and 29 C.F.R. § 452.2. The NJRLCA Constitution contains no provision requiring notice of the nominations and election to the State Association's membership. Similarly, the National Rural Letter Carriers' Association, the NJRLCA's parent organization, does not require notice to the membership regarding nominations and election by delegates of intermediate body officers at a state convention.

The investigation revealed that a combined notice of nominations and election was nonetheless published in the 2009 Convention Call newsletter which was mailed to all

members in good standing and non-working members on March 27, 2009, and which you received. This notice set forth the date, time, and place of the nominations and election; the offices to be filled and the terms of the offices; the eligibility requirements to nominate and run for office, including the definition of "member in good standing;" and the nominating procedures. Accordingly, there was no violation.

You alleged that the NJRLCA violated Section 401(c), 29 U.S.C. § 481(c), of the Act by denying candidates an opportunity to campaign, treating non-incumbent candidates disparately, and failing to provide adequate safeguards for a fair election. In this regard, you contended that the State Association failed to provide announced candidates with information about nominations and campaign procedures, and campaign opportunities. The Department's investigation did not substantiate these allegations. Rather, as discussed above, the NJRLCA general membership, including you, had notice of the nominations approximately 30 days in advance of the 2009 State Association officer election. The investigation showed that the January 2009 "Garden State Rural Carrier" newsletter contained instructions for mailing campaign literature and submitting campaign articles for publication, as well as the deadline for submitting such articles, March 21, 2009. Indeed, the investigation established that three non-incumbent candidates submitted campaign articles which were published in the Convention Call issue of the newsletter. There is no evidence that you submitted a campaign article for publication or requested to have a campaign mailing done on your behalf. The investigation disclosed that the NJRLCA responded to your requests for mailing labels by informing you of the established procedures for campaign mailings and advised you to contact the secretary-treasurer. The investigation also disclosed that no candidates were provided with mailing labels. No violation occurred.

You alleged that disparate candidate treatment occurred in that non-incumbent candidates were denied access to the membership for campaigning purposes because they were not notified about union meetings. You alleged further that incumbent officers used union resources by campaigning at union meetings and thereby poisoned the candidacy of those not in attendance. In particular, you asserted that State Association officers' discussion of your 2008 election protest and controversy concerning advanced delegate expenses during regular meetings constituted campaigning against you. LMRDA Section 401(g) prohibits the use of union funds to promote the candidacy any individual(s) in the election. *See* 29 U.S.C. § 481(g). The Department's regulations at 29 C.F.R. § 452.75 specify that a labor organization and its officers may not show preference in an election by using union funds to criticize or praise any candidate. The general rule of fairness that circumscribes a union's discretion in conducting its elections requires that when one candidate is given an opportunity to campaign at a union meeting, then all of the opposing candidates should have the same opportunity. *See* 29 C.F.R. § 452.110(a).

The investigation established that your home address is correctly listed in the membership records, and that you regularly receive most mailings to the general membership. The investigation also established that the same mailings are sent to your

wife, also a NJRLCA member, whose home address is the same as yours. NJRLCA meeting notices are sent to the membership by mail. The investigation uncovered no evidence to explain why you would have received only selective mailings. Nor is there any evidence that you requested and were denied any information about scheduled union meetings or that you were excluded from them. Although union resources were used in order to hold union meetings, the investigation revealed no evidence that campaigning, by incumbent officers or any candidate, occurred during any union meeting. Discussion of union business that may involve you or any other candidate does not constitute campaigning during a union meeting. There was no violation.

To the extent that you have challenged any aspect of the District II election of delegates to the May 2009 NJRLCA Convention, those allegations are moot because the District delegates to the State Association convention already completed their Title IV function, i.e. voting for officers of the State Association on May 3, 2009. It is significant that all officers of the State Association were elected by margins greater than one delegate vote; therefore, even if you had been unlawfully prevented from being nominated and elected as a delegate to the 2009 NJRLCA Convention, there would have been no effect on the outcome of the NJRLCA officer election.

Some of the allegations, which were among those numbered 181-200 in your protest, raised issues that, even if true, would not constitute violations of Title IV of the LMRDA. I have therefore not addressed them in this letter.

For the reasons set forth above, the Department has concluded that there was no violation of the LMRDA, and I have closed the file in this matter.

Sincerely,

Cynthia M. Downing
Chief, Division of Enforcement

cc: Timothy Horner, President
New Jersey Rural Letter Carriers' Association
8 Catherine Court
Sicklerville, New Jersey 08081

National Rural Letter Carriers' Association
c/o Mark Gisler, Attorney
Peer & Gan, LLP
1730 Rhode Island Avenue, N.W., Suite 307
Washington, DC 20036

, Associate Solicitor for Civil Rights and Labor-Management

