



August 18, 2011

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Dear //////////////////////////////////://:

This Statement of Reasons is in response to your complaint filed on April 18, 2011, 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 delegates conducted by the International Brotherhood of Teamsters (IBT) Local 107 on March 9, 2011.

The Department of Labor 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 either no violation of the LMRDA or no violation that affected the outcome of the election.

You alleged that while transporting ballot packages from the print shop to the post office, an unknown number of ballots were left unsecured in the print shop. Section 401(c) of the LMRDA provides, among other things, that "adequate safeguards to insure a fair election shall be provided." Violations of the adequate safeguards provision are determined on a case-by-case basis. In addition, in order for a violation to be actionable, there must be evidence that the violation may have affected the outcome of the election. 29 U.S.C. § 482(c)(2); see also, 29 C.F.R. § 452.5.

Election Official ////////////////////////////////// advised that she put a rubber band around 59 unused ballots and took them with her to the post office when the ballots were mailed. While no one working at Cheltenham Printing or any of the observers present could say for certain if ////////////////////////////////// took the unused ballots to the post office with her, the investigation disclosed that a ballot count was done before the ballots were mailed. A total of 2,430 ballots were initially printed; seven of the ballots were removed for smudges, and 2,357 ballots were mailed to members. Therefore, there were 66 unused ballots.

The number of unused ballots ////////// thought that she took to the post office is seven less than the number of unused ballots. However, the smallest margin in the election was 628 for the Delegate position. To the extent that there is a discrepancy between the number of ballots ////////// thought she took to the post office and the actual number of unused ballots, this minor discrepancy could not have affected the outcome of the election. Investigation accounted for all ballots printed.

You alleged that four members did not receive ballots. Section 401(e) of the Act provides that every member in good standing is entitled to one vote and that those votes be counted. 29 U.S.C. § 481(e). The investigation disclosed that members' addresses were saved in the international union's data system, and the labels used to mail ballot packages were generated from that system at the International office. Employees of the local union updated members' addresses in the system on a regular basis. A records review revealed that only 62 of the 2,357 ballot packages that were mailed were returned as undeliverable. Of these, 31 were re-mailed with updated addresses. There was no evidence that a violation occurred, and even if four members did not receive a ballot, this would not have affected the outcome of the election.

You alleged that the union violated Section 401(c) of the LMRDA, 29 U.S.C. § 481(c), by denying observers the opportunity to be present for the printing of ballots. The LMRDA's adequate safeguards provision, cited above, provides that candidates have the right to "have an observer at the polls and at the counting of the ballots." 29 U.S.C. § 481(c). Section 401(e) of the LMRDA, 29 U.S.C. §481(e), provides that Title IV elections must be conducted in accordance with the constitution and bylaws of the labor organization insofar as they are not inconsistent with the provisions of Title IV. Article IX of the Rules for the 2010-2011 International Brotherhood of Teamsters International Union Delegate and Officer Election (Rules) states: "Each candidate for the position of Convention delegate . . . and each slate of candidates for such position . . . shall have the right . . . to have at least one observer present at each and every phase of the election process."

The investigation revealed that ballots were printed prior to the scheduled time of 9:00 a.m. on February 15, 2011. Cheltenham Printing ////////////////////////////////////// stated that he printed the ballots the day before because he had a printer that was not working properly, and he wanted to make sure that the ballots were ready for stuffing on February 15, 2011. As stated above, the ballots were counted in front of the observers on February 15, 2011. Denying observers the right to be present for the printing of the ballots was a violation. However, this violation did not affect the election because the ballots were counted and reconciled in the presence of the observers. Accordingly, there was no violation that could have affected the outcome of the election.

You alleged that the union violated Section 401(c) of the LMRDA, 29 U.S.C. § 481(c), by denying observer //////////////// the opportunity to be present for the pickup of undeliverable ballot packages on February 28, 2011. //////////////// arrived at the Torresdale Post Office at 7:00 a.m. for an 8:00 a.m. pickup. He was approached by two postal officers and escorted off of the property for trespassing. //////////////// did not attempt to return to the post office in the company of a union official. The union did not prevent //////////////// from being present at the 8:00 a.m. pickup. Furthermore, //////////////// was able to observe subsequent pickups of undeliverable ballot packages. There was no violation.

You alleged that the union violated Section 401(c) of the LMRDA, 29 U.S. C. § 481 (c), by denying //////////////// the opportunity to be present for the relabeling and remailing of undeliverable ballots. Local 107 Secretary Jackie Hopkins faxed members' names and corrected addresses to Cheltenham Printing and Cheltenham Printing prepared and sent out duplicate ballot packages. The union did not prevent //////////////// from going to Cheltenham Printing and observing the process of preparing duplicate ballot packages. There was no violation.

You alleged that the union violated Section 401(c) of the LMRDA, 29 U.S.C. § 481(c), because there was no schedule indicating when observers should be present to observe undeliverable ballot package pickups. Under the adequate safeguard provision, "[a] labor organization's wide discretion regarding the conduct of its elections is . . . circumscribed by a general rule of fairness." 29 C.F.R. § 452.110. You concede that you received a letter from Secretary Jackie Hopkins informing you of the undeliverable ballot package pickup schedule. Observers were made aware of the time that the ballot packaged pickups were scheduled, and were not denied the right to be present for the pickup. 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 this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

cc: James P. Hoffa, General President
International Brotherhood of Teamsters
25 Louisiana Avenue, NW
Washington, DC 20001

William Hamilton, President
Teamsters Local 107
2845 Southampton Road
Philadelphia, PA 19154

Beverly Dankowitz, Acting Associate Solicitor for CRLM



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This Statement of Reasons is in response to your complaint filed on April 18, 2011, 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 delegates conducted by the International Brotherhood of Teamsters (IBT) Local 107 on March 9, 2011.

The Department of Labor 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 either no violation of the LMRDA or no violation that affected the outcome of the election.

You alleged that while transporting ballot packages from the print shop to the post office, an unknown number of ballots were left unsecured in the print shop. Section 401(c) of the LMRDA provides, among other things, that "adequate safeguards to insure a fair election shall be provided." Violations of the adequate safeguards provision are determined on a case-by-case basis. In addition, in order for a violation to be actionable, there must be evidence that the violation may have affected the outcome of the election. 29 U.S.C. § 482(c)(2); see also, 29 C.F.R. § 452.5.

Election Official ////////////// advised that she put a rubber band around 59 unused ballots and took them with her to the post office when the ballots were mailed. While no one working at Cheltenham Printing or any of the observers present could say for certain if ////////////// took the unused ballots to the post office with her, the investigation disclosed that a ballot count was done before the ballots were mailed. A total of 2,430 ballots were initially printed; seven of the ballots were removed for smudges, and 2,357 ballots were mailed to members. Therefore, there were 66 unused ballots.

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election was 628 for the Delegate position. To the extent that there is a discrepancy between the number of ballots ////////////// thought she took to the post office and the actual number of unused ballots, this minor discrepancy could not have affected the outcome of the election. Investigation accounted for all ballots printed.

You also alleged that the union violated Section 401(c) of the LMRDA, 29 U.S.C. § 481(c), by denying observers the opportunity to be present for the printing of ballots. The LMRDA's adequate safeguards provision, cited above, provides that candidates have the right to "have an observer at the polls and at the counting of the ballots." 29 U.S.C. § 481(c). Section 401(e) of the LMRDA, 29 U.S.C. §481(e), provides that Title IV elections must be conducted in accordance with the constitution and bylaws of the labor organization insofar as they are not inconsistent with the provisions of Title IV. Article IX of the Rules for the 2010-2011 International Brotherhood of Teamsters International Union Delegate and Officer Election (Rules) states: "Each candidate for the position of Convention delegate . . . and each slate of candidates for such position . . . shall have the right . . . to have at least one observer present at each and every phase of the election process."

The investigation revealed that ballots were printed prior to the scheduled time of 9:00 a.m. on February 15, 2011. Cheltenham Printing ////////////// stated that he printed the ballots the day before because he had a printer that was not working properly, and he wanted to make sure that the ballots were ready for stuffing on February 15, 2011. As stated above, the ballots were counted in front of the observers on February 15, 2011. Denying observers the right to be present for the printing of the ballots was a violation. However, this violation did not affect the election because the ballots were counted and reconciled in the presence of the observers. Accordingly, there was no violation that could have affected the outcome of the election.

You alleged that the union violated Section 401(c) of the LMRDA, 29 U.S.C. § 481(c) and the election rules by renting post office boxes for the election at the same facility at which the union receives its regular mail. The Election Rules state that, "Your local should not rent the two post office boxes at the same post office where the local union has a regular business post office box because the U.S. Postal Service might mix up the local's business mail with the ballots." The union receives its regular mail at the union hall, not at any post office. There was no violation.

You also alleged that the union violated Section 401(c) of the LMRDA, 29 U.S.C. § 481(c), by denying observer ////////////// the opportunity to be present for the pickup of undeliverable ballot packages on February 28, 2011. ////////////// arrived at the Torredale Post Office at 7:00 a.m. for an 8:00 a.m. pickup. He was approached by two postal officers and escorted off of the property for trespassing. ////////////// did not attempt to return to the post office in the company of a union official. The union did not

prevent // from being present at the 8:00 a.m. pickup. Furthermore, // was able to observe subsequent pickups of undeliverable ballot packages. There was no violation.

You alleged that the union violated Section 401(c) of the LMRDA, 29 U.S.C. § 481(c), because there was no schedule indicating when observers should be present to observe undeliverable ballot package pickups. Under the adequate safeguard provision, “[a] labor organization's wide discretion regarding the conduct of its elections is . . . circumscribed by a general rule of fairness.” 29 C.F.R. § 452.110. You concede that you received a letter from Secretary Jackie Hopkins informing you of the undeliverable ballot package pickup schedule. Observers were made aware of the time that the ballot packaged pickups were scheduled, and were not denied the right to be present for the pickup. There was no violation.

You also alleged that the union violated Section 401(c) of the LMRDA, 29 U.S.C. § 481(c), when, on February 14, 2011, you were told by Secretary Hopkins that you could not act as an observer for the printing of the ballots because you were a candidate in the election. Article IX of the Rules for the 2010-2011 International Brotherhood of Teamsters International Union Delegate and Officer Election states that each candidate has the right to have “at least one observer present at each and every phase of the election process” and “[s]uch observer shall be a candidate or a member in good standing.” Under the Rules, you were allowed to serve as your own observer and be present at every phase of the election process. The investigation disclosed that you were allowed to observe the ballot preparation after calling Election Supervisor // . Accordingly, there was no violation.

You alleged that the union violated Section 401(c) of the LMRDA, 29 U.S.C. § 481(c), by using different mailing lists. As stated above, under the LMRDA’s adequate safeguard provision, “[a] labor organization's wide discretion regarding the conduct of its elections is . . . circumscribed by a general rule of fairness.” 29 C.F.R. § 452.110. The investigation disclosed that you obtained mailing labels for an October 2010 campaign mailing from // campaign for General President in the International election. You received 74 pieces of undeliverable campaign literature. The local received 62 undeliverable ballot packages. The difference in the number of pieces of undeliverable campaign literature you received and the number of undeliverable ballot packages the union received can be explained by the continuous updating of the membership list from October 2010 through March 2011. There is no evidence to support your allegation that the union used different mailing lists. There was no violation.

You alleged that the union violated Section 401(c) of the LMRDA, 29 U.S.C. § 481(c), because you were denied a copy of the local’s election plan and that the plan was not

followed. As stated above, under the adequate safeguard provision, “[a] labor organization's wide discretion regarding the conduct of its elections is . . . circumscribed by a general rule of fairness.” 29 C.F.R. § 452.110. You concede that you received a copy of the election plan on February 16, 2011 from your observer, ///////////////. You were also mailed the local election plan after you filed a protest. While the union did not follow the local election plan when it moved the nomination meeting from the union hall to an American Legion post, the decision did not unfairly affect any candidate. The investigation did not disclose, nor did you allege, that anyone who wanted to be nominated at the meeting was not because of the move. The decision to move the nomination meeting was within the union’s discretion and did not violate the adequate safeguards provision. There was no violation.

Finally, you made two allegations that members on withdrawal status were not mailed ballots denying them the right to vote. Section 402 of the LMRDA requires that a member must have “exhausted the remedies available under the constitution and bylaws” of their union in order to file a complaint with the Secretary of Labor. At the time you initiated your complaint to the Department, you had not received a final decision from the union nor had 120 days elapsed from your initial protest dates of February 25, 2011 and March 6, 2011. Thus, your allegations are not properly within the scope of your complaint to the Department. 29 C.F.R. § 452,136(b-1). For this reason, the Department did not investigate these allegations. *See* 29 U.S.C. § 482(a).

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 this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

cc: James P. Hoffa, General President
International Brotherhood of Teamsters
25 Louisiana Avenue, NW
Washington, DC 20001

William Hamilton, President
Teamsters Local 107
2845 Southampton Road
Philadelphia, PA 19154

Beverly Dankowitz, Acting Associate Solicitor for CRLM