



May 3, 2011

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to the complaint that you filed with the United States Department of Labor on October 28, 2010, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA), 29 U.S.C. §§ 481-484, occurred in connection with the election of officers of Government Security Officers (UGSOA) Local 80 completed on August 5, 2010.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded, with respect to each of your specific allegations, that no violation occurred that may have affected the outcome of the election. A discussion of each of these allegations follows below.

You alleged that Local 80 held a mail ballot election instead of having a polling place election which you allege is the election format prescribed by the Local 80 bylaws. You further alleged that the use of mail ballots, with the ballots returned to the UGSOA International in Colorado, deprived the candidates of the right to have observers present at the tally, as required by Section 401(c) of the LMRDA.

The Department's investigation found, and you later acknowledged, that the Local 80 bylaws did not require a polling place election nor did the bylaws have a provision requiring the tally to take place in any specific location. Further, each of the nominees ran unopposed and no balloting was required. Thus, your allegations, even if substantiated, would have had no effect on the outcome of the election. Accordingly, there was no violation of the LMRDA as to this allegation.

You further alleged that the union failed to appoint an election committee of members in good standing to oversee the election process, as required by Article V, Section 5.1 of the Local 80 bylaws. Section 401(e) requires unions to conduct elections in accordance with their constitution and bylaws.

The investigation found that while Article V, Section 5.1 requires the Local 80 President to appoint three members to serve on an election committee to oversee the election, there was no formal election in this case because each of the nominees for office ran unopposed. The provision of the bylaws regarding the election committee is silent with regard to any role the committee might have in the nominations process. The investigation did not reveal any violation with respect to nominations. To the extent that Local 80's failure to convene an election committee was not in accordance with its bylaws, however, the Department's investigation found no evidence that this had any effect on the outcome of the election.

You also alleged that Local 80 did not provide adequate notice of the specially scheduled meetings at which nominations were taken. Federal regulations require that notice of nominations must be given "in any manner reasonably calculated to reach all members in good standing and in sufficient time to permit such members to nominate the candidates of their choice, so long as it is in accordance with ... the labor organization's constitution or bylaws." 29 CFR § 452.56.

The Department's investigation found that Local 80 posted a flyer in advance of the nominations meetings, which were held on July 16, 2010 and July 17, 2010. This flyer listed the date, time and location of the meeting, but did not have any information stating that nominations would be made at the meeting. Accordingly, the flyer was deficient as a nominations notice. However, the Department also found that on July 22, 2010, Local 80 mailed a joint nominations/election notice to members' last known mailing address, indicating that members could nominate candidates through August 5, 2010 by regular mail, electronic mail, or fax. The content of this July 22, 2010 mailing, and the time it allowed for making nominations, comports with the LMRDA and its regulations, and thus remedied any deficiency in the original flyer that was posted.

You further alleged that this July 22, 2010 mailed notice was not sent to all members, in violation of the LMRDA. The LMRDA requires that an election notice must be mailed to each member at his or her last known address.

The investigation, however, found that the mailing list used as the basis for sending the July 22, 2010 letter was correct, and that the July 22 letter was mailed to each individual on the list. As such, the notice mailing complied with the LMRDA. Further, the Department did not find any evidence that members did not receive the mailing or that there was any effect on the outcome of the election. You and your witness, [REDACTED] [REDACTED] acknowledged receiving the joint notice by mail. Other witnesses that you provided, [REDACTED] and [REDACTED] stated that they did not receive the notice, but confirmed that the address the union had for them was correct and that, regardless, neither of them had any intention of running for office or nominating anyone else to run for office. Another witness, [REDACTED] indicated that he did not

receive the joint notice in the mail, but further indicated that he was shown the letter by another member and had attended the July 16<sup>th</sup> and 17<sup>th</sup> meetings, and thus had ample notice and opportunity to nominate.

The Department interviewed three other witnesses, each of whom had either attended one of the nominations meetings or received the July 22, 2010 notice in the mail, and all of whom nevertheless indicated no interest in running or nominating others to run. In short, the evidence demonstrates that the union's mailing was proper under the LMRDA, and there is no evidence that any mailing deficiencies, even if they existed, affected the outcome of the election process. Accordingly, the Department will not set aside the election results.

Finally, you alleged that a list of members containing dues deduction errors was distributed to Local 80 members on two occasions, causing confusion among the members regarding their good standing and their ability to vote in the election.

The investigation found that two lists of members in good standing were sent to the membership. The first one, on June 8, 2010, accompanied a letter informing the membership that an election would take place later that year and setting forth the good standing requirements for the election. Donna Huff, the UGSOA International Director of Court Special Officers Division who was overseeing the operations of Local 80 in the absence of elected officers, acknowledged that this list contained errors.

Subsequently, a second list of members in good standing was sent to the membership on June 21, 2010, with instructions that the list sent on June 8, 2010 should be discarded. This was done so that members could see if they were in good standing and, if they were not, could pay past dues and come into good standing.

Upon review, the June 21, 2010 list was correct as to all members except one, Leonard Hudson. However, this error was corrected prior to the nominations and election period. Further, while one person nominated for office, [REDACTED] was prevented from running because he was not in good standing, this did not violate the LMRDA because (a) it was a correct determination, as [REDACTED] had not paid his past dues; and (b) [REDACTED] was given an opportunity to pay his past dues and thus regain eligibility as a candidate, but he declined to do so. Accordingly, there was no violation of the LMRDA as to this allegation.

For the reasons set forth above, it is concluded that there was no violation of the LMRDA that affected the outcome of the election, and I have closed the file in this matter.

Sincerely,



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Chief, Division of Enforcement

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