



May 15, 2014

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your complaint received by the U.S. Department of Labor on January 16, 2014, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), occurred in connection with the election of officers of Southwest Airline Pilots' Association on October 31, 2013.

You alleged that you were improperly criticized by incumbent officers in the union's October 15, 2013 publication, Reporting Point (RP). The SWAPA Policy Manual provides, in relevant part, that once nominations for offices are published, the union is prohibited from accepting for publication any letters to the membership that either endorse or denounce any candidate's suitability for office. Manual 6.04.F.9.g. This prohibition also applies to columns or Executive Officer submissions for publication in the RP. Manual 6.04.F.9.g. Further, section 401(g) of the LMRDA prohibits unions from using union funds to promote any candidate's candidacy. Consequently, unions may neither attack nor praise any candidate in a union-financed publication nor urge the nomination or election of a candidate in a union-financed letter to members. 29 C.F.R. § 452.75. Whether an article published in a union-financed publication constitutes campaign material is determined by examining the tone, content and timing of the literature at issue. Statements to union members made by union officials that are factual and newsworthy are not considered to be campaign material.

The investigation determined that you published a letter in the September 15, 2013 RP chastising the Board of Directors for alleged excessive spending of union funds. You called the Board the "Board of Entitlement," accused them of "lining their pockets," and stated that "SWAPA spending has gotten out of hand." In the October 15, 2013, RP, Orlando Domicile (MCO) [REDACTED] responded generally to "vociferous" critics of the SWAPA budget, defending reforms that had been made and stating his view that the Board had "turned the corner on SWAPA spending." The article went on to praise certain members of the Board and to advocate "experience and continuity on the Board." The article did not identify you by name or denounce your suitability for office. Because the MCO vice chair's October 15 article did not explicitly endorse or

denounce a candidate's suitability for office, the union's failure to block its publication did not violate its Manual.

The primary purpose of the articles was to respond to accusations you and others made about the budget and spending by the Board; your September 2013 letter to the membership published in the RP was in violation of Section 401(g), which prohibits any showing of preference by a labor organization that is advanced through the use of union funds to criticize and or praise a candidate. 29 C.F.R. § 452.75. The topic of [REDACTED] article was factual and newsworthy and involved the internal affairs of the union. While [REDACTED] defense of particular Board members and of "stability" on the Board could be interpreted as promoting the candidacy of incumbent members of the Board, it is responsive to the general criticism of the Board that you published in the same newsletter a month earlier. To the extent there was a violation, it would have been offset by your letter to the membership, published in the September 2013 RP, which denounced the Board and could equally be interpreted as promoting the campaigns of any challengers to the Board. There was no violation of the LMRDA that would have affected the outcome of the election.

In addition, you alleged that the 1st vice president's October 18, 2013 official union blog promoted the candidacy of the MCO chair by naming him and attributing to him the filing of a grievance that was resolved successfully in the union's favor. A review of the October 18th blog showed that all topics therein were newsworthy to the membership, including the article in question. The MCO chair had filed the grievance on behalf of the union, so the statement was factual. The membership has an interest in being informed on the substance of grievances filed and their outcome. The grievance in question challenged the company's requirement that first officers obtain first class medicals, which had a potentially negative impact on the advancement chances of first officers; the company rescinded that requirement. Given that there are 3,500 first officers in this union, this was newsworthy information to the membership. There was no violation.

For the reasons set forth above, your complaint to the Department is dismissed, and I have closed the file in this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

cc: Mark Richardson, President
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