



March 20, 2009

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to your April 3, 2008, complaint filed with the United States Department of Labor 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 Local 302 (Local 302 or local), Postal Mail Handlers Union (National), conducted on December 17, 2007.

The Department of Labor (Department) conducted an investigation of your allegations. As a result of the investigation, the Department concluded that there were no violations that may have affected the outcome of the election.

You alleged that election committee chair [REDACTED], on his own volition, decided to interpret a nominations letter nominating [REDACTED] for Branch President to also include a nomination for Local President, despite the clear intent of nominations letter. The investigation disclosed that [REDACTED], the incumbent local president, submitted a timely self-nominations letter nominating himself for both Local President and San Francisco (SF) Branch President. At the October 28, 2007, nominations meeting, election committee chair [REDACTED], believing that only one nomination was permitted stated that the nomination was for Local President. The following day, [REDACTED] spoke to the National office and learned that dual nominations were permissible. After conferring with [REDACTED], who confirmed that he sought the office of local president and SF Branch President, [REDACTED] submitted [REDACTED]'s additional nomination for SF Branch President.

Although the LMRDA does not prescribe particular forms of nomination procedures, it does require that the procedures employed be reasonable and that they conform to the provisions of the labor organization's constitution and bylaws insofar as they are not inconsistent with the provisions of the LMRDA, 29 C.F.R. § 452.55. Article VI, section 1(A) of the Local Constitution provides, in relevant part "[r]egular members in good standing shall be entitled to make nominations by mail by sending copies of such

nominations to this Local Union by registered, certified or express mail. Such nominations must be received prior to the nomination meeting and shall be read by the Judges of Election at the nomination meeting." Nothing in the Local Constitution or the LMRDA precludes a member from nominating himself for more than one position, which ██████ did in this instance. There was no violation.

You alleged that the election committee improperly qualified ██████ to run for local president even though he was not in good standing. Article V, section 1, of the Local Constitution, requires candidates for office to be in good standing for a period of two years immediately prior to nominations and current in the payment of dues. A review of ██████'s dues payment history for a period of several years prior to this election showed that he was in continuous good standing for the two years prior to the nominations meeting. There was no violation.

You alleged that the election committee may have permitted ineligible members to vote. Your conclusion is based on your belief that the election committee chair used an incorrect dues list. The investigation disclosed that the election committee initially brought a list of local members showing their dues payment for 30 days prior to the tally. However, the election committee chair, after being told that he would need a list showing dues deductions for the last 90 days prior to the tally, obtained such a list from the union office. The election committee determined that eleven challenged ballots were cast by members who were ineligible to vote. Those challenged ballots were not included in the tally.

The Local Constitution does not specifically set forth voter eligibility criteria. Instead, the Local Constitution provides the circumstances by which a member will be automatically suspended. Article VIII, section 3, of the Local Constitution provides, in relevant part, that "[m]embers whose dues are not paid within 90 days after such dues are payable shall be automatically suspended." The National has interpreted this provision as allowing any member to vote who has paid any dues during the 90 days prior to the tally. The Department's review of the eleven challenged ballots showed that one of those challenged ballots was cast by a member who had made three dues payments during the 90 days prior to the tally; his ballot should have been included in the tally. However, Local 302's failure to include that ballot in the tally would not have affected the outcome of the election because all offices in this election were won by margins exceeding one vote. There was no violation that may have affected the outcome of the election.

You alleged that the election committee agreed to meet with you on December 21, 2007, to review nominations documents but later cancelled that meeting. The investigation confirmed this allegation. Unions are required to hold their elections in accordance

with their constitution, insofar as the union constitution is not inconsistent with the LMRDA, 29 C.F.R. § 452.2. Nothing in the union constitution or the LMRDA requires a union to provide candidates access to review nominations documents. Consequently, the election committee's cancellation of the December 21, 2007 meeting with you did not violate either the union constitution or the LMRDA. There was no violation.

You alleged that the procedure for obtaining a duplicate ballot involved the local staff and possibly local officers, instead of the election committee, thereby creating an opportunity for fraud where incumbent candidates could interfere with the ballot request process. The investigation disclosed that the local hired True Ballot to conduct its election. Duplicate ballots were requested through a link on True Ballot's website. The only person with a password for this link was the local's administrative secretary [REDACTED], who, authorized by election committee chair [REDACTED], handled all duplicate ballot requests. Local members requesting a duplicate ballot called the union office. When transmitting a duplicate ballot request using True Ballot's website link, Long also emailed every duplicate ballot request to [REDACTED]. The investigation further revealed that the local president was in his office once or twice a week; he did not recall any instance in which he answered the local's telephone when a member requested a duplicate ballot. The investigation disclosed no evidence of fraud. You agree that you have no such evidence and know of no instance where a member requested a duplicate ballot from any local officer. There was no violation.

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

Sincerely,

Cynthia M. Downing
Chief, Division of Enforcement

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