



August 10, 2010



Dear [REDACTED]:

This Statement of Reasons is in response to your March 12, 2010 complaint filed with the United States Department of Labor (Department) alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA or Act), 29 U.S.C. §§ 481 - 484, occurred in connection with the election of officers of the Transport Workers Union (TWU), Local 100 (Local 100) conducted on December 7, 2009.

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 which may have affected the outcome of the election.

You allege that incumbent officers of Local 100 used union telephone lists to call and send text messages to newly-hired bus operators to encourage them to vote for the incumbent officers' slate, in violation of section 401(g) of the LMRDA. Section 401(g) prohibits the use of union funds to promote any candidate for union office. Specifically, you allege that during the weekend of November 21 - 23, 2009, newly-hired bus operators told you that they had been receiving multiple calls and text messages from incumbent officers, seeking their support in the December 7, 2009 election. During the Department's investigation, certain newly-hired drivers stated that they were called by and received text messages from incumbent officers campaigning for support at the December 2009 election. While the investigation disclosed conflicting evidence from union officers regarding whether or not such campaigning occurred, the weight of the evidence supports a finding that such campaign phone calls and text messages were made using a Local 100 union telephone list compiled during new employee orientation, in violation of section 401(g).

However, section 402(c)(2) of the LMRDA provides that an election will only be overturned where a violation may have affected the outcome of the election. The Department's investigation disclosed that 68 newly-hired bus operators voted in the

December 7, 2009 election and were potentially exposed to the incumbent officers' campaigning. The smallest margin of victory in any contested office won by the incumbent slate was 78 votes. Accordingly, any violation would not have affected the outcome of the election.

You also allege that incumbent officers of Local 100 were campaigning in work areas during the newly-hired bus operators' work time, in violation of section 401(g) of the LMRDA. Specifically, you allege that incumbent officers of Local 100 were riding buses being driven by the newly-hired bus operators, waiting at the bus depots, and talking with bus operators at the end of the bus routes for purposes of campaigning for union office. While the Department's investigation disclosed some evidence that supporters of incumbent officers campaigned to newly-hired bus drivers while the drivers were working, there was insufficient evidence to support a Title IV violation. Moreover, as stated above, even if such a campaign violation did occur, it would only have affected 68 newly-hired bus operators, an insufficient number to have an effect on the outcome of the election.

For the reasons set forth above, it is concluded that no violation of the LMRDA occurred that may have affected the outcome of the election. Accordingly, the office has closed the file on this matter.

Sincerely,

Patricia Fox, Chief
Division of Enforcement

cc: James C. Little, International President
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