



June 1, 2010

Dear |||:

This Statement of Reasons is in response to your March 9, 2009 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), 29 U.S.C. §§ 481-484, occurred in connection with the International Brotherhood of Teamsters, Local 118's (union's) regular election of officers conducted by mail on December 4, 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 of the LMRDA that affected the outcome of the election occurred.

You asserted that your slate was not allowed to use the local union's bulk mail permit for your campaign mailing. As evidence that unequal treatment occurred, you alleged that the union used the permit to mail the union newsletter, which contained an announcement of the election. The LMRDA provides that unions must comply with all reasonable requests of any candidate to distribute by mail or otherwise at the candidate's expense, campaign literature to union members. 29 U.S.C. § 481(c); 29 C.F.R. § 452.67. The union must provide equal treatment as to the expense of such distribution. *Id.* Section 17(F)(4) of the local union's bylaws provide that the Secretary-Treasurer of the union shall arrange for a mailing of campaign literature provided that the arrangements and payment of any estimated cost is done in advance. The bylaws also state that "[a]ny reduced rate mailing permit available to any candidate shall be made available to all candidates on an equal basis."

The Department's investigation determined that your slate was informed in advance of the date for mailing campaign material that all candidates were responsible for purchasing postage for their campaign mailings in advance of the mailing. The evidence showed that you nevertheless went to the union office with your mailing and requested that the union use its bulk mail permit for your slate's mailing. The union refused and instructed you to affix the proper postage to your mailing and then return

to the office to complete your mailing. You never returned to the union office with your campaign mailing

The union did not refuse to comply with your request to mail your campaign materials. There is no requirement in the LMRDA or the union's bylaws that you be permitted to use the union's bulk mail permit; the bylaws only require that candidates be treated equally in this regard. Moreover, there was no evidence that the union failed to provide equal treatment with regard to the cost of the mailing. The incumbent slate conducted a mailing and there was no evidence that the incumbent's slate used the union's bulk mail permit. The fact that the union used the mail permit to mail out a union newsletter announcing the upcoming election is not evidence of unequal treatment because the mailing was official union business, not a campaign mailing. There was no violation of the LMRDA.

You asserted that a supporter of the incumbent slate and an incumbent candidate campaigned at an employer facility while on company time. You also claimed that your slate's campaign materials were removed by an employee of Wegmans, yet the incumbent slate's campaign materials were allowed to remain at Wegmans. Section 401(g) of the LMRDA provides that: "no moneys of an employer shall be contributed or applied to promote the candidacy of any person in an election subject to the provisions of this title." 29 U.S.C. § 481(g). The Department has interpreted this provision to prohibit campaigning on company time. 29 C.F.R. § 452.78(a). Further, section 401(c) of the LMRDA provides that adequate safeguards to ensure a fair election must be provided. 29 U.S.C. 481(c). This provision is construed as a general mandate of fairness in an election. 29 C.F.R. § 452.110.

The investigation revealed that the witnesses you identified as having seen the incumbent's candidates campaigning denied seeing any campaign activity at the work sites. The alleged campaigners admitted to being at the worksites for union business but denied that they were campaigning. All of the employers have non-solicitation policies, although prior to this election, one employer, Wegmans, had not vigorously enforced its policy. Wegman's Supervisor | | | | | | | | | | stated that he saw flyers for both campaigns and removed them.

No other witnesses corroborated your allegation that candidates on the incumbent slate were campaigning at the worksite. The results of the investigation also failed to substantiate your claim that the presence of the incumbent candidates conducting union business at the worksite constituted employer support or promotion for the opposing slate. There was no evidence that improper campaigning occurred at the worksites. The employer in question removed all campaign materials discovered at the worksite and there was no evidence that the employer improperly supported or endorsed any candidate from either slate. There was no violation of the LMRDA.

You alleged that an instance of discriminatory treatment occurred when the union purposely delayed the determination of whether |||, a member of your slate, was eligible to run for office.

Section 401(e) of the LMRDA provides that union elections be conducted in accordance with the union's constitution and bylaws. 29 U.S.C. § 481(e). Section 17 (C)(2) of the union's bylaws require that to be eligible for election to any office a member must be in continuous good standing in the local union and actively employed at the craft within the jurisdiction of the local union for a period of 24 consecutive months prior to the month of nomination. The investigation revealed that there was a legitimate issue of whether ||| was eligible to run, because his dues had not been paid in the month of December 2007. Once the union obtained the necessary information from the employer to resolve the dues issue, ||| was placed on the sample and final ballots. The eligibility determination did not affect his ability to run for office and there is no evidence to show that the union engaged in disparate treatment with regard to the eligibility determination. There was no violation of the LMRDA

For the reasons set forth above, it is concluded that with respect to each of your specific allegations that no violation of the LMRDA occurred that may have affected the election. Accordingly, I have closed the file in this matter.

Sincerely,

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