



November 12, 2010

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your complaints filed with the Department of Labor ("Department of Labor" or "Department") on June 3 and 28, 2010. Your complaints allege that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 ("LMRDA" or "the Act"), 29 U.S.C. §§ 481-484, occurred in connection with the proposed March 2010 election of officers by the American Federation of State, County, and Municipal Employees ("AFSCME"), National Union of Hospital and Healthcare Employees ("NUHHCE"), District 1199NM.

The Department of Labor 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 any possible violation of the Act that may have existed has now been remedied by the occurrence of an election on August 27, 2010.

You allege that District 1199NM failed to abide by its bylaws in its preparation for its March 2010 election and in postponing that election until August 2010. Section 401(e) of the LMRDA, 29 U.S.C. § 481(e), requires that union elections be conducted in accordance with the constitution and bylaws of such organization insofar as they are not inconsistent with the provisions of Title IV. The Department's investigation determined that, in early 2010, you alleged that the local had failed to abide by its bylaws in numerous ways. As a result of the numerous pre-election issues you raised with the union, the union decided to postpone its election until August 2010.

Section XII (1) and (2) of the District 1199NM bylaws requires that the "General election of Officers and Executive Board members shall be held in even years biennially" and that "[t]he election of Officers and Executive Board members shall be held in the spring of an election year, at places and times designated by the Election Board." In a complaint filed with the Department on June 3, 2010, you alleged that postponing the March 2010 election was a violation of Section XII (1) and (2) and, therefore, Section 401(e) of the Act. In an additional complaint filed with the Department on June 28, 2010, you alleged that, in connection with the election that had originally been scheduled to take place in March 2010, you did not receive a District Union publication

or any notice of the dates, places and candidates for the election 15 days prior to the election, as required under Article XII of the bylaws. You also made a variety of allegations concerning the nominating petitions, the posting and layout of the ballots, and the conduct of the District Executive Board and Election Board.

Section 402(b) of the LMRDA provides that if the Secretary “finds probable cause to believe that a violation . . . has occurred and has not been remedied, he shall . . . bring a civil action against the labor organization.” Although failure to hold an election in the spring of 2010 may have been a violation of Article XII (1) of the District 1199NM bylaws, because the union did indeed conduct an election on August 27, 2010, any possible violation that previously existed has now been remedied. Similarly, any potential violations relating to your additional allegations concerning the proposed March election would have been remedied by the August election, which has not been protested. Accordingly, enforcement pursuant to Section 402(b) is unavailable.

For the reasons set forth above, the Department concludes that there was no violation of the Act that has not been remedied, and I have closed the file on these matters.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

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