



February 11, 2013

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to the complaint that you filed with the U.S. Department of Labor on October 1, 2012, alleging that a violation of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) occurred in connection with the election of officers for Local 757 of the Amalgamated Transit Union conducted on June 15, 2012.

The Department conducted an investigation of your allegation. As a result of the investigation, the Department has concluded that there was no violation of the LMRDA.

You allege that the election committee unfairly sought detailed information from candidate [REDACTED] employer and also improperly communicated with ATU President Larry Hanley regarding [REDACTED] nomination. The investigation did not substantiate your allegation. Section 401(e) of the LMRDA requires unions to hold covered elections in accordance with their validly adopted constitution and bylaws. It also provides that every member in good standing shall be eligible to be a candidate and to hold office subject to "reasonable qualifications uniformly imposed." *see* 29 C.F.R. § 452.2.

The Local 757 Bylaws require that candidates be on the payroll and drawing wages from a job covered by one of the Local's collective bargaining agreements. At the time of nominations, [REDACTED] was coded as a retiree in the union database that the Local used to verify candidates' eligibility. As a result, the election committee sought more information on [REDACTED] status, which [REDACTED] provided in the form of a letter from MV Transportation affirming his employment as a part-time utility worker. There is no evidence [REDACTED] was unfairly singled out for a more rigorous review of his qualifications. Rather, the election committee co-chair, [REDACTED] requested guidance from the international union on how to address the issue of [REDACTED] eligibility. The ATU international president responded with recommendations to the election committee as to what they should consider in making a determination.

For the reasons set forth above, the Department has concluded that there was no violation of Title IV of the LMRDA that affected the outcome of the election, and we have closed the file in this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

cc: Lawrence J. Hanley, International President
Amalgamated Transit Union
5025 Wisconsin Ave., NW
Washington, DC 20016

Bruce Hansen, President
Amalgamated Transit Union Local Division 757
1801 NE Couch Street
Portland, Oregon 97232-3054

Christopher Wilkinson, Associate Solicitor
Civil Rights and Labor-Management Division



February 11, 2013



Dear [REDACTED]

This Statement of Reasons is in response to the complaint that you filed with the U.S. Department of Labor on October 9, 2012, 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 for Local 757 of the Amalgamated Transit Union conducted on June 15, 2012.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded that there was no violation of the LMRDA.

You allege that the union did not allow you to inspect the membership list before the election. The Department's investigation did not substantiate this claim. Section 401(c) of the Act provides that a candidate has the right to inspect a list containing the names and last known addresses of all members once within 30 days prior to the election.

The investigation found that no candidate, including you, requested to inspect the membership list. Further, the union provided candidates with an information packet at the nominations meeting which contained a letter notifying candidates of their right to inspect the membership list. There was no violation of the LMRDA.

You also allege that a letter endorsing candidate Mary Longoria was: (1) prepared and signed by the executive board on union property; and (2) that Vice President Sam Schwarz and the executive board engaged in campaigning when they prepared the letter during a board meeting. Similarly you also allege that the retiree executive board used the union's facilities to prepare, produce and mail its endorsement letter for Longoria.

Section 401(g) prohibits the use of employer and union funds to promote the candidacy of any person in an election covered by the LMRDA. In this case, the investigation did not substantiate your allegations. Rather, it found that there is no prohibition against campaigning at the union hall and no candidate was prohibited from doing so. Further, the investigation found that the 10 executive board members who signed the letter did

so during breaks or after the May 18, 2012 meeting and that executive board member [REDACTED] paid for the letter and mailing. With regard to the retiree executive board, the investigation found that candidates [REDACTED] [REDACTED] and Longoria paid for the production and mailing of the retiree executive board endorsement letter. Further, the investigation found that the retiree executive board invited all at-large candidates to speak to the board but you declined the invitation. There was no violation.

Finally, you allege that the interval between the ballot mailing and the tally did not provide sufficient time for members to vote. You further allege that the union delayed signing up 26 new hires until it was too late for them to vote.

Section 401(e) of the LMRDA requires that notice of the election must be mailed to each member at his last known address at least 15 days prior to the election and that every member in good standing is entitled to one vote and that those votes be counted.

The investigation did not substantiate your allegations. The investigation found that the union sent notice of the election to its members via its publication, *Northwest Labor Press & The Bulletin*, on May 4, 2012. The election contractor mailed the ballots on May 29, 2012 and the ballot tally was on June 15, 2012.

Further, the investigation did not identify any member who did not vote because he or she did not have enough time. In addition, the investigation found that an employer notified the union on May 31, 2012, that 26 new hires would begin work June 4. Twenty-three (23) new hires eventually signed their dues deduction authorizations, but not in time to vote. There is no evidence the new hires received anything other than routine treatment with regard to their applications and authorizations.

For the reasons set forth above, the Department has concluded that there was no violation of Title IV of the LMRDA that affected the outcome of the election, and we have closed the file in this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

cc: Lawrence J. Hanley, International President

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