



September 18, 2013

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to your complaint filed on February 27, 2013, with the Department of Labor 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 conducted by the National Association of Letter Carriers (NALC) Branch 11 on November 17, 2012.

The Department of Labor conducted an investigation of your allegation. As a result of the investigation, the Department has concluded, with respect to your allegation, that there was no violation that may have affected the outcome of the election.

You alleged that incumbent candidate Yolanda Gipson handled a tray of voted ballots at the Jackson Park postal station, located in Chicago, Illinois, where she works. Section 401(c) of the LMRDA provides that adequate safeguards to insure a fair election shall be provided to all members. Pursuant to this provision, a labor organization's wide range of discretion regarding the conduct of the election is circumscribed by a general rule of fairness. 29 CFR § 452.110. Such safeguards are not required to be included in the union's constitution and bylaws, but they must be observed.

The investigation established that candidate Gipson was employed as a letter carrier and was working at the Jackson Park postal station during the course of the recent election of officers. On November 15, 2012, the Jackson Park station manager, [REDACTED], observed Gipson sorting a tray of mail that contained returned voted ballots. [REDACTED] immediately took the tray of mail from Gipson and secured it. Station manager [REDACTED] did not witness Gipson removing and replacing voted ballots. Gipson denied engaging in ballot tampering or ballot fraud. You acknowledged to the Department that you do not have any information, evidence, or any reason to believe that Gipson removed or caused ballots to be removed from the Jackson Park postal station where she works.

Additionally, the investigation did not reveal that Gipson took, replaced, or opened any ballots. In fact, the investigation revealed that forging and replacing ballots would have been very

difficult because the ballots and ballot return envelopes had the member's name and address with a unique bar code assigned to the member to minimize ballot tampering. The investigation did not reveal any evidence that voted ballot envelopes had been opened and resealed, that multiple ballots were voted by the same individual, or that the ballots and return envelopes had any unique identifiable markings that could be attributed to their being voted by the same individual. While the investigation did not reveal any evidence of ballot tampering or fraud, the union's decision to select a post office where the voted ballots were returned and where an incumbent candidate was employed during the election process created a serious safeguards risk. However, there was no actionable violation of the LMRDA.

The investigation revealed that the union's election process did not provide the opportunity to observe required by the LMRDA. Section 401(c) of the LMRDA provides that each candidate, upon request, must be permitted to have an observer at the polls and at the counting of the ballots. This right encompasses the right to have an observer present at the preparation and mailing of the ballots. 29 C.F.R. 452.107. The union conducted all ballot preparation procedures in Connecticut which effectively discouraged observers from taking part in the process. However, there was no actionable violation of the LMRDA as no one requested the opportunity to observe.

The investigation also revealed that the union failed to account for all ballots in violation of the adequate safeguards requirement in section 401(c) and failed to retain ballots mangled and otherwise spoiled during the printing process in violation the recordkeeping requirement of section 401(e). These violations of sections 401(c) and (e) of the LMRDA are not actionable because the union's failure to document the custody of the ballots or to keep the election records did not affect the ballot count or result in any election irregularity that may have affected the outcome of the election.

For the reasons set forth above, the Department has concluded that there was no violation of Title IV of the LMRDA that may have affected the outcome of the election, and I am closing our file regarding this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

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