



June 20, 2014



Dear [REDACTED]:

This Statement of Reasons is in response to the complaint that you filed with the U.S. Department of Labor received on March 5, 2013, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA), occurred in connection with the election of officers of National Association of Letter Carriers, Branch 132 which concluded on November 14, 2012.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded that, to the extent any violations of the LMRDA occurred during the conduct of the election, any such violation did not affect the outcome of the election, and thus the Department will not take action to set aside the election results.

You first alleged that Branch 132 officers completed and voted a large percentage of the 400 retired members' ballots. You supported this allegation by stating that a large percentage of the outer return ballot envelopes for these retired members had the same postmark date and location and were marked with the same type of pen. Further, you asserted that these envelopes were coded with an "R" or "L" (for retired or lifetime member), and that, unlike past elections, retirees were placed on a separate membership roster.

The LMRDA requires unions to provide adequate safeguards to ensure a fair election. However, the Department's review of the voted ballots did not substantiate your allegation. The investigation revealed no discrepancies suggesting voter fraud. With specific regard to retiree ballots, the investigation revealed that a total of 122 of the 418 retiree ballots, or 29%, were postmarked on October 24, 2012, but given that the ballots were mailed on October 21, 2012, this would correspond with retiree voters voting and returning their ballots on the date of receipt, which is a typical voting pattern. As for the location from which the ballots were mailed, the Department found that 347 of the 418 ballots, or 83%, bore the North Texas PD&C postmark. However, that is a mail processing center that handles mail from a wide range of zip codes - 75000 through

75499 and 76000 through 76399. In sum, there was no evidence suggesting a violation of the LMRDA with regard to this allegation.

You further alleged that there was an over-printing of approximately 100 ballots for the Branch 132 mail ballot election, and that incumbent officers could have voted these ballots for retired members whom they knew would not vote. Again, the investigation found no evidence to substantiate this allegation. The Department found that prior to the ballot mailing, election committee chair [REDACTED] counted 97 extra ballots in front of the candidates, and later advised that the Reilly-Echols Printing Company had provided these. A review of the election records showed that 40 of the ballots were used to respond to members asking for a duplicate ballot because they had not received and/or had lost their ballot, and the remaining 57 extra ballots were unused and found among the election records retained by Branch 132. Accordingly, there was no violation of the LMRDA as to this allegation.

You alleged that Branch 132 engaged in discriminatory candidate treatment by distorting the appearance of campaign advertisements of the Solution Slate and by not giving the slate an opportunity to fix any software compatibility or formatting issues that may have caused the changed appearance. However, you further stated that you did not believe that this affected the election outcome.

The LMRDA prohibits discriminatory candidate treatment; however, the investigation did not substantiate such a violation. The investigation found that the union officer passed on the campaign literature from both slates to the printing company without alteration, in the same state that the literature was provided to him. The Department reprinted the ads as sent from [REDACTED] to the printing company, and found the same distortion, i.e., that when printed, the text ran over the pictures, rather than adjacent to the pictures. The union did not differentiate in the treatment of the campaign literature provided by the two slates in the manner alleged. Accordingly, there was no violation of the LMRDA.

You alleged that the union violated the LMRDA when [REDACTED], who was acting as a grievance representative at the Main Post Office, went either to retrieve ballots or to inquire as to the number of ballots received and correctly estimated how many ballots had been voted.

The LMRDA requires that unions maintain adequate safeguards to ensure a fair election, and this includes safeguards pertaining to storage and access to mail ballots. The investigation found that [REDACTED] identification badge did not permit him access to restricted areas at the postal facilities, and [REDACTED] and other witnesses stated that he did not inquire about, retrieve, or touch any of the ballots. On the day of the tally, [REDACTED] was present when the trays of ballots were brought in from the post office and he

guessed at how many ballots there were at that time, based on his former experience as a mail carrier and how much mail each tray held. Accordingly, there was no violation of the LMRDA as to this allegation.

You alleged that Branch 132 incumbent candidate for president Sid Simmons improperly used union resources to call and text Branch 132 members to solicit votes. Based on information from other members of the Solution Slate, you specifically alleged that Simmons solicited votes from five members: [REDACTED]

The LMRDA prohibits use of union resources to campaign. The Department interviewed Simmons, who stated that he used his personal cell phone to contact members to solicit votes, and did so only after 5:30 p.m. after he was no longer on paid union time. He further stated that he did not use any union contact lists to obtain the contact information for these members but used phone numbers that he had accumulated over the years. Member contact information obtained as a result of union work or one's position with the union is considered a union resource or list and use of the information to campaign without making it available to all candidates would violate the LMRDA.

The investigation found that members [REDACTED] and [REDACTED] denied receiving any calls or text messages from any candidate, but that members [REDACTED] and [REDACTED] confirmed that Simmons contacted them (the Department made attempts to contact member [REDACTED], but was unable to reach him). Even assuming that these two individuals were contacted through improper means contrary to the LMRDA, this would not have affected the outcome of the election given that the narrowest margin in any of the races was 91 votes. Further, the investigation found that members from both slates campaigned using member telephone numbers from their cell phones that could be considered union lists. To the extent that these lists were improperly used contrary to the LMRDA, the effect of these violations would offset. Therefore, there is no evidence that any such violations affected the outcome of the election.

Finally, you further alleged that the union violated the LMRDA when Election Committee Chair [REDACTED] opened the locker containing the election records approximately one week after the election without candidates being present. The Department investigated this allegation and found that [REDACTED] without other witnesses present, opened the locker containing the election records after the election in order to investigate your complaint regarding classification codes and postmark dates on return envelopes. The investigation did not reveal that [REDACTED] in any behavior that would affect the previous tally or the election results. Moreover, the Department's ballot recount confirmed the overall results of the ballot count initially

performed by the union. There was no violation that would have affected the outcome of the election.

For the reasons set forth above, it is concluded that no violations of the LMRDA occurred in this election that affected the outcome of the election, and I have closed the file in this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

cc: Fredric V. Rolando, President
National Association of Letter Carriers, AFL-CIO
100 Indiana Avenue, N.W.
Washington, D.C. 20001-2144

Sid Simmons, President
National Association of Letter Carriers Branch 132
8451 Endicott Lane
Dallas, TX 75227

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