



September 24, 2014

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your June 10, 2014, complaint filed with the U.S. Department of Labor 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 conducted by the International Brotherhood of Teamsters (IBT), Local 560 on December 10, 2013.

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 occurred that may have affected the outcome of the election. The following is an explanation of this conclusion.

You alleged that the vice presidential candidate for the opposing slate, [REDACTED], improperly picked up the ballots at the post office and may have tampered with them. Section 401(c) of the LMRDA prohibits disparate treatment of candidates for union office, and it also requires that unions provide adequate safeguards to ensure a fair election.

The Department's investigation determined that observers from your slate encountered [REDACTED] alone on the loading dock with the ballots when they arrived at the post office. [REDACTED] reported that postal workers mistakenly brought him the ballots after he said he was with the union. The election supervisor arrived after all observers, and he had not previously informed observers where they would meet and how the retrieval of the ballots would be handled. This lack of direction by the election supervisor, along with Welsh gaining improper access to the ballots, demonstrates a lack of adequate safeguards to ensure a fair election. However, an examination of the ballots showed no indications of tampering or fraud. Accordingly, while a violation occurred, the evidence does not establish that there may have been an effect on the election outcome.

You next alleged that Local 560 denied union members the right to vote by refusing to count challenged ballots that were cast by eligible members. Section 401(e) of the LMRDA requires that unions count the ballots of all eligible members. The Department's review of the ballots found that 34 ballots were challenged and uncounted. Of these 34, Local 560 correctly did not count 17 ballots cast by ineligible members. The remaining 17 ballots should have been counted, as the members casting them were eligible under IBT rules. Another, separate ballot from an eligible member returned in a personal envelope also should have been counted. This failure to count ballots violated the LMRDA.

The union argued during the investigation that you stipulated during your internal protest that only nine of the challenged ballots should be counted, even though it admitted that the omission of some of the remaining ballots contradicted IBT rules. The Department does not consider this stipulation binding on its resolution of the complaint. Once you put the union on notice that ballots were improperly not counted, the union was obligated to count those ballots and could not enter into an agreement to improperly exclude them.

The union agreed during the investigation that nine challenged ballots cast by stewards should have been counted. To remedy the violation, the Department counted these nine ballots and, with these additional votes added to the official tally, the remaining number of disputed ballots was less than the margin of victory in any race. Therefore, even though Local 560 violated the LMRDA, this violation had no effect on the election outcome.

You next alleged that Local 560 improperly conducted the tally because the election supervisor's wife placed ballots in the wrong stack after they had been sorted. Again, Section 401(c) of the LMRDA bars unions from disparately treating candidates and requires adequate safeguards to ensure a fair election. Although the election supervisor's wife briefly placed ballots in the incorrect stack while helping with the sorting, the investigation concluded that this mistake was quickly corrected and did not affect the tally. The Department's review of election records and the ballots also found no evidence of fraud or tampering. Thus, there was no violation.

Finally, you alleged that the election supervisor counted ballots after forcing observers out of the room. Section 401(c) of the LMRDA requires that candidates be permitted to have observers at the polls and during the counting of ballots. Although some witnesses asserted that the election supervisor forced observers out of the room and appeared to have continued counting, other witnesses contradicted these accounts. While the weight of the evidence is therefore not sufficient to support a determination that a violation occurred, even if there was a violation, the Department's review of the records confirmed the union's tally and found no evidence of tampering or fraud. Therefore, any observer violation would not have affected on the outcome of the election.

For the reasons set forth above, it is concluded that no violation of the LMRDA occurred that may have affected the outcome of the election. Accordingly, the office has closed the file on this matter.

Sincerely,

Patricia Fox  
Chief, Division of Enforcement

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