



February 6, 2009



Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed on October 14, 2008, with the Department of Labor alleging violations of Title IV of the Labor Management Reporting and Disclosure Act of 1959 ("LMRDA" or "Act"), 29 U.S.C. § 481-484, occurred in connection with the Teamsters, AFL-CIO, Local 480 ("Local 480") election of officers on November 5, 2007.

The Department of Labor ("Department") conducted an investigation of your allegations. As a result of the investigation, the Department has concluded, with respect to each of your allegations, that there was no violation of the LMRDA that affected the outcome of the election.

You alleged that TLB Systems, the contractor hired by Local 480 to conduct the election, used two Local 480 employees for election work. However, the Act does not prohibit union employees from performing election related tasks. There was no indication of any bias or inappropriate behavior by either of the individuals named in your complaint. Consequently, there was no violation of the LMRDA.

You next alleged that the incumbent president and business manager improperly removed and replaced a Local 480 dues clerk, who had worked closely with the Teamsters' TITAN accounting system, prior to the election. The Department found that the dues clerk was replaced nearly six months prior to the election due to an office mandate to cross train employees to use the TITAN system. Further, the employment status of the dues clerk is not within the purview of the Act and was therefore not investigated further. Thus, there was no violation of the LMRDA.

You also alleged that ballots were miscounted. Specifically, you alleged that the total number of slate votes the incumbent slate of candidates received was exactly 800, which you believe raised concerns about the validity of the ballot count. The Department investigated your claim and conducted a recount. The investigation revealed that one

slate-voted ballot was miscounted, and thus the incumbent slate received 799 slate votes. The LMRDA requires that in order for the Department to seek to overturn an election, it must prove a violation may have affected the outcome of the election. *See* 29 U.S.C. 482. Since the closest margin of victory was 28 votes for both the offices of vice president and trustee, the miscount of one vote could not have affected the outcome of the election.

You further alleged that the keys to the post office box containing undelivered ballots were not properly secured, and thus did not provide an adequate safeguard under Section 401(c) of the Act, 29 U.S.C. § 481(c). As part of that requirement, the handling of ballots must be adequately secure, including challenged and undelivered ballots. The Department found that the employees with access to the locked box adequately maintained possession of the post office box keys. The keys were either kept on their person or kept in a locked box in a union office desk drawer. Additionally, persons who had been officially appointed in writing to observe on behalf of a candidate or slate were afforded the opportunity to observe the collection of returned undeliverable ballots on October 25, 26, 29, and 31, 2007. The investigation found that observers did in fact attend three of these four scheduled collections of returned undeliverable ballots, and at no time did any of the observers note any problems. Moreover, the Department's investigation failed to disclose any evidence that the two named union employees made unscheduled collections of undeliverable ballots or otherwise engaged in fraudulent conduct in connection with any phase of the election process.

As part of the investigation, the Department also conducted a reconciliation of the 3,259 ballots that an outside printing company printed for the election. The election records revealed that the printer mailed 3,099 ballots on October 17, 2007. After this initial ballot mailing, the printer mailed 47 duplicate, replacement ballots to members who requested them and 38 new ballot packages to members whose original ballot packages were returned as undeliverable but for whom the union obtained corrected mailing addresses. Since the investigation found 76 unused ballots in the election records, the Department reconciled the ballots used to within one ballot of the total number printed. As there was only one ballot unaccounted for, any error could not have affected the outcome of the election.

You also raised two additional allegations that were determined not to be within the scope of the Department's authority. You alleged that prior to the election campaign literature was placed on the employer's bulletin board in violation of the Act. You learned of this issue on October 15, 2007 but failed to file a pre-election protest. You also mentioned that a prohibited use of union funds occurred when campaign t-shirts were distributed at the local union's Labor Day picnic in September 2007. However, you did not include this allegation in your complaint and stated you were satisfied with

the Joint Council's treatment of this issue. Subsequently, those allegations were not investigated by the Department.

In sum, the investigation failed to disclose any violation of the LMRDA which may have affected the outcome of the election. Accordingly, the office has closed the file on this matter.

Sincerely,

Patricia Fox
Acting Chief, Division of Enforcement

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