



June 3, 2009

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed on February 12, 2009, with the Department of Labor alleging that a violation of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U.S.C. §§ 481-484, occurred in connection with the election of officers conducted by the International Brotherhood of Teamsters, Local 776 (local or union) on October 17, 2008.

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

You alleged that the union failed to provide adequate safeguards to insure a fair election because the ballots were not properly secured at the post office. This allegation was not substantiated. The investigation established that the return ballot envelopes were placed in trays in a large canvas bin labeled with the corresponding post office box number and secured behind a locked door. Also, the investigation established that postal inspectors have a gallery with windows above the boxing area where they can observe the boxing area at anytime. There was no evidence that any person improperly accessed or tampered with the return ballot envelopes while they were in the possession of the post office. There was no violation.

You alleged that the union failed to provide adequate safeguards to insure a fair election because there were discrepancies in the number of return ballots reported by the election mediator and the number recorded by your slate's observer, and discrepancies in the vote totals for candidates for the office of president. You further alleged that these discrepancies heightened your concerns about possible ballot tampering. These allegations were not substantiated.

The Department examined the markings on the 3,384 return ballot envelopes contained in the election records. The examination revealed that each return ballot envelope contained a postal service bar code which indicates that each envelope was processed through the U. S. Postal Service. Furthermore, the number of return ballot envelopes, 3,384, is consistent with the postal service's Mail Volume Report which showed that 3,391 pieces of mail were returned to the union's election post office box between the date the ballots were mailed and October 17, 2008, the collection date. The investigation revealed that the seven additional envelopes recorded in the Mail Volume Report may have resulted from additional envelopes received by the post office on October 17, 2008, but after the 8:00 a.m. collection that day by the election mediator. These seven ballots would have been received late and not included in the tally.

The Department's examination of the election records did not reveal any evidence of ballot tampering or substitution. The investigation revealed that 7,990 ballots were printed and 7,401 ballots were mailed. Of the remaining 589 ballots, 199 were used for duplicate ballot requests, and two were used by Dasher, the mailer, as samples. While there should have been 388 blank ballots remaining, the Department counted 386 blank ballots. These two ballots would not have affected the outcome of any race. The smallest margin of victory was 148 votes for the office of vice president. The Department also conducted a ballot recount of several races and found that there were minor differences between the union's tally and its count. None of the differences changed the outcome of any race.

During the investigation the Department accounted for the undeliverable ballot packages and also established that the returned undeliverable ballot packages were safeguarded. The Department found that none of the 173 returned undeliverable ballot packages in the election records had been opened. Although the election mediator did not record how many returned undeliverable ballot packages he collected, your observer was present at all but one collection of undeliverable ballot packages prior to the election. According to the observer's records, there were 160 returned undeliverable ballot packages collected on the dates he was present. Since the observer missed the October 14 collection of returned undeliverable ballot packages and the clearing out of that post office box after the tally, it is likely the 13 additional returned undeliverable ballot packages found in the election records were collected at those times. There was no violation.

For the reasons set forth above, the Department has concluded that there was no violation of Title IV of the LMRDA, and I have closed the file regarding this allegation.

Sincerely,

Cynthia M. Downing
Chief, Division of Enforcement

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