



August 2, 2010

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed with the Department of Labor on February 12, 2010, alleging violations 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 of Local 509 (Local 509 or local), Laborers International Union of North America (International), conducted on October 31, 2009.

The Department of Labor (Department) conducted an investigation of your allegations. As a result of the investigation, the Department has concluded that there was no violation that may have affected the outcome of the election.

You allege that discriminatory restrictions were placed on your slate's distribution of campaign literature at one of six employer-owned facilities. In particular, you allege that members of the opposing slate were permitted to campaign at the Union-70 base, but your slate was not. Section 401(c) of the LMRDA requires that unions treat all candidates equally with respect to campaign opportunities. 29 U.S.C. § 481(c); see, 29 CFR 452.67 (similar distribution of campaign literature must be permitted for all candidates). Likewise, employers may not favor one candidate's campaign activity over another candidate.

The investigation disclosed that Union-70 Base, unlike the other facilities, restricted campaigning to posting campaign literature in designated areas and prohibited active campaigning, including handing out campaign literature on its premises. While the investigation disclosed that candidates and supporters alike were confused about the scope of permissible campaigning at Union-70 Base, there was no evidence that the union or employer applied discriminatory rules to particular candidates or slates and there was evidence that all candidates, including you, were permitted to post campaign literature at the facility. There was no violation.

You also alleged that the content of campaign material [REDACTED] distributed at Hall Street Base on October 30, 2009, concerned three other candidates who had not authorized such publication. It is well-settled law that a union may not censor the statements of candidates in any way, even if a candidate's statements are defamatory. 29 C.F.R. § 452.70. Rather, members must be allowed to determine the truth or falsehood of campaign literature. There was no violation.

You alleged that [REDACTED], unopposed candidate for Sergeant-at-Arms, drove an employer-owned bus to the polling site on October 31, 2009 and used an employer microphone to campaign. Section 401(g) of the LMRDA prohibits the use of employer monies to promote the candidacy of any person in an election. This prohibition includes anything of value contributed by the employer, whether or not the employer is aware of the use of its resources.

While the evidence disclosed conflicting information, it appears that [REDACTED] drove an employer bus to the polls and that other individuals, including his wife, may have been on the bus. There is no evidence that Ross used the bus as part of a campaign or that affiliation with a particular candidate or slate was a condition to obtaining a ride on the bus. Although [REDACTED] used an employer resource, he did not promote any person's candidacy and therefore there was no violation of the Act.

You also alleged that [REDACTED] used the employer's radio system to campaign for the Blue Team, soliciting member-drivers to "vote for the Blue Team." The investigation disclosed that First Student buses are equipped with a radio to broadcast the driver's voice to other drivers and the dispatch center. Radio communications are taped for future employer access. Although other drivers recalled hearing a broadcast inviting voters to join [REDACTED] for dinner after closing of the poll, the investigation did not support your claim that [REDACTED] used this employer resource to solicit a vote for a particular slate. There was no violation.

For the reasons set forth above, it is concluded that there was no violation of the LMRDA affecting the outcome of the election, and I have closed the file in this matter.

Sincerely,

Patricia Fox  
Chief, Division of Enforcement

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