



December 28, 2011

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to your complaint filed with the United States Department of Labor on September 14, 2011 alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA) occurred in connection with the election of officers conducted by the American Postal Workers Union (APWU), Local 262 on May 11, 2011.

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 which may have affected the outcome of the election.

You alleged that Local 262 failed to follow its Election Rules when it permitted the [REDACTED] (i.e. Team for Forward Progress Slate) to send a postcard campaign mailing using a bulk mail rate, in violation of section 401(e). Section 401(e) requires that the union conduct its election in compliance with its constitution and bylaws. Local 262's Election Rule #7 states, in relevant part, that "[c]ampaign literature must be provided to the Election Committee in sealed envelopes with proper first class postage applied."

The investigation revealed that Election Committee Chair [REDACTED] discussed this issue of sending a campaign mailing by bulk mail at a candidates' meeting, which neither your slate nor the [REDACTED] attended, and decided that a mailing via bulk was not contrary to the purposes of the election rules or the constitution and bylaws. [REDACTED] explained that you complained about [REDACTED] postcard mailing during the election period and he told you that you were permitted to also send a postcard campaign mailing using a bulk mail rate. You conceded that this discussion occurred, but you decided not to send the postcard mailing.

Title IV of the LMRDA requires that unions comply with all reasonable requests to send campaign mailings and that similar distribution under the same conditions must be made for any candidate who makes such a request. Based on its investigation, the Department concludes that Wright's postcard campaign mailing - which was an option the election committee allowed you to also take advantage of - was a reasonable request. To the extent that Election Rule #7 conflicts with Title IV, the union correctly did not apply this election rule. Further, this election rule is not included in the union's constitution and bylaws, and section 401(e) only requires that a union conducts its election in compliance with its constitution. For these reasons, there is no violation of the LMRDA.

In your complaint you also alleged that Local 262 failed to follow its Election Rules and voting instructions when it picked up the election ballots from the post office at 11 a.m., in violation of section 401(e). In particular, you alleged that Election Rule #8 and the voting instructions provided that ballots were due in the P.O. Box by 8 a.m. on May 11, 2011, and since the election committee did not pick up the ballots until 11 a.m., the union allowed an entire extra day of mail to be delivered into the P.O. Box.

The investigation found that Election Committee Chair [REDACTED] used the same election rule and voting instructions as the year before, simply changing the date. A week prior to the election, however, [REDACTED] learned that the Chesapeake Post Office was not opening until 10 a.m., making it impossible for him to pick up the ballots at 8 a.m. [REDACTED] e-mailed individual candidates and called the head of your election slate to notify candidates of the change in pick up time. Further, one week prior to the date the ballots were due, [REDACTED] posted a notice at the Norfolk Processing & Distribution Plant where approximately 390 out of 490 members work explaining the change in pick up time. Although the union did not comply with Election Rule #8, the investigation revealed that all mail for the Chesapeake Post Office arrives before 8 a.m., with deliveries at 5 a.m. and approximately 7 a.m. As such, the union's 11 a.m. pick up had no effect on the outcome of the election because all ballots were delivered prior to 8 a.m.

Section 401(e) only requires that a union conduct their election in compliance with its constitution, not election rules. Section 401(c) of LMRDA, however, requires that unions provide adequate safeguards to insure a fair election. *See* 29 C.F.R. § 452.110. While setting a ballot return deadline that the union could not comply with presents a potential violation of this section, the Department determined that all ballots counted at the election tally were received at the Chesapeake Post Office prior to the 8 a.m. deadline. Accordingly, even if there is a violation of the LMRDA, that violation could not have affected 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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