



May 11, 2011

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to the complaint that you filed with the United States Department of Labor on January 29, 2011, alleging that 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 for the National Division of the Brotherhood of Locomotive Engineers and Trainmen (BLET) completed on December 15, 2010.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded that no violations affecting the outcome of the election occurred.

You allege that ineligible members may have voted in the election because the union mailed ballots to both eligible and ineligible members. Specifically, you name members [REDACTED] [REDACTED] and [REDACTED] as ineligible voters who received ballots. Section 401(e) of the LMRDA provides that every member in good standing is entitled to one vote and that those votes be counted. In addition, Section 401(c) of the LMRDA requires that unions have adequate safeguards to insure a fair election.

The Department's investigation found that the ballots of [REDACTED] and [REDACTED] were properly deemed ineligible and not counted in the tally, and that [REDACTED] was listed as an active member, eligible to vote by his division. However, you challenged [REDACTED]'s ballot and it was not included in the ballot tally. The investigation did not find evidence that ineligible members were permitted to vote, but instead found that one eligible ballot was deemed ineligible even though it was not included on the ineligibility list and was improperly excluded from the tally. This failure constitutes a violation of the Act. However, in order for the Department to seek to overturn an election, there must be evidence that the violation may have affected the outcome of the election. 29 U.S.C. § 482(c)(2). In this case, there is no such evidence due to the margins of victory in all the races.

You also allege several violations that were not properly protested under the union's internal protest procedure. Section 402 of the LMRDA requires that a member must have "exhausted the remedies available under the constitution and bylaws" of their union in order to file a complaint with the Secretary of Labor. The investigation confirmed that you did not raise these issues with the union. Thus, they are not properly within the scope of your complaint to the Department.

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 in this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

cc: Dennis R. Pierce, National President
Brotherhood of Locomotive Engineers and Trainmen (BLET)
1370 Ontario Street, Mezzanine
Cleveland, OH 44113-1702

Beverly Dankowitz, Acting Associate Solicitor
Civil Rights and Labor-Management Division



May 12, 2011



Dear [REDACTED]:

This Statement of Reasons is in response to the complaint that you filed with the United States Department of Labor on January 12, 2011, alleging that 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 for the National Division of the Brotherhood of Locomotive Engineers and Trainmen (BLET) completed on December 15, 2010.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded that no violations occurred.

You allege that BLET National Division's incumbent officers improperly used union funds and resources, specifically the Mobilization Network, for a get-out-the-vote campaign to benefit the incumbent slate and that incumbent BLET National Division officers improperly campaigned while they were being compensated by the union for travel to conduct Mobilization Network activities. The investigation did not substantiate these allegations.

Section 401(g) of the LMRDA prohibits the use of union resources and funds to promote the candidacy of any person in an election subject to the Act. Section 401(c) of the LMRDA requires unions to refrain from discrimination in favor of or against any candidate.

The investigation revealed that Section 7(h) of the 2006 BLET Bylaws provides for a "Department of Internal Organizing, Mobilizing, and Strategic Planning," i.e., the Mobilization Network. Although the Mobilization Network had not been used for prior officer elections, the 2010 switch from election by delegates to allowing all rank and file members to vote for national officers caused the union to use the Mobilization Network to increase voter turnout. The investigation further found that members received consistently clear communications that the Mobilization Network's purpose

was to increase voter turnout and not to direct members to vote for specific candidates or slates. In fact, you were asked to be part of its Get-Out-the-Vote-Drive for the election.

The investigation found no evidence that the Mobilization Network was used to promote the candidacy of the incumbent slate, or that the Mobilization Network directed its efforts toward supporters of the incumbent slate. The investigation also found no evidence that anyone working for the Mobilization Network campaigned for the incumbent slate while being paid by the union or at times when activities were to be devoted to Mobilization Network activities. There was no violation of the Act.

You also alleged that BLET National Secretary-Treasurer William C. Walpert improperly served as Election Officer while also being a candidate in the election. The investigation found that Section 49 of the 2006 Bylaws and Article I of the Rules for the 2010 BLET Officer election give the National Secretary-Treasurer the authority to supervise the National Division officer election. The Rules allow the secretary-treasurer to delegate his election duties and functions, but require that the secretary-treasurer direct and supervise the selected Election Officer. In this case, Walpert designated [REDACTED] as Election Officer of the 2010 election. [REDACTED]'s primary responsibility was to assist Walpert oversee the election. [REDACTED] also assisted the Election Protest Committee and Advisory Board with responding to protests.

As stated above, Section 401(c) of the LMRDA requires unions to refrain from discrimination in favor of or against any candidate. The investigation found no evidence that anything improper or irregular occurred during the election.

You also allege that the appearance of the ballots favored the incumbent slate because they included members of the incumbent slate who had won by acclamation. The investigation disclosed that Election Rules Advisory No. 14, issued on October 1, 2010, before nominations took place, stipulated that all slates would be fully listed on the ballots. Both slates were fully listed in the order specified in Article I of the election rules. There was no violation of the Act

You also allege several violations that were not properly protested under the union's internal protest procedure. Section 402 of the LMRDA requires that a member must have "exhausted the remedies available under the constitution and bylaws" of their union in order to file a complaint with the Secretary of Labor. 29 U.S.C. § 482. The investigation confirmed that you either did not timely raise these issues with the Union or that you did not raise them at all. Thus, they are not properly within the scope of your complaint to the Department.

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 in this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

cc: Dennis R. Pierce, National President
Brotherhood of Locomotive Engineers and Trainmen (BLET)
1370 Ontario Street, Mezzanine
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