



October 2, 2012

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to your May 22, 2012 complaint filed with the U.S. Department of Labor alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) occurred in connection with the election of officers conducted by the U.S. Airline Pilots Association (USAPA) on February 23, 2012.

The 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 no violation occurred which may have affected the outcome of the election.

You alleged that Gary Hummel received preferential treatment over other candidates when union and employer funds were used to promote his candidacy in violation of sections 401(g) and 401(c) of the LMRDA. Specifically, you alleged that Hummel campaigned at the PHL Domicile meeting on January 24, 2012 and the DCA Domicile meeting on February 2, 2012, while being compensated by the union and receiving a per diem. Section 401(g) prohibits the use of union or employer funds to promote any candidate for union office. Section 401(c) requires unions to refrain from discrimination in favor or against any candidate.

The Department's investigation revealed that Hummel attended both meetings in his role as Executive Vice President (EVP). The record reflects that Hummel received compensation and per diem for the PHL meeting, but not the DCA meeting. Based on his role as EVP, Hummel, during the two meetings, answered questions directed to him regarding the union, as well as its possible alliance with another organization.

You provided names of several witnesses, who claimed that Hummel had campaigned at the PHL and DCA meetings. No witness was able to provide any examples of campaigning to support your allegation; some did take issue with the fact that Hummel answered questions regarding union business in his role as EVP. The investigation further revealed that a Ballot Certification Committee Member attended the PHL meeting to ensure that no campaigning occurred. That committee member confirmed that no one campaigned at this meeting. There is no evidence that Hummel

campaigned at either the PHL or DCA meeting. Accordingly, there was no violation of the LMRDA.

You alleged that Gary Hummel, [REDACTED], and [REDACTED] used union and employer funds to campaign on company property in the CLT and PHL airports, contrary to the prohibition set by the Election Committee rules and in violation of section 401(g) of the LMRDA. When interviewed, you advised that campaigning occurred in the crew and bag rooms of the CLT and PHL airports.

Although you provided the names of two witnesses to Hummel's campaigning in the CLT and PHL crew rooms, neither named witness verified seeing Hummel campaign. Employees of the US Airways Pilots Office, who were aware of your concerns, also denied observing Hummel campaigning on company property. Hummel admits that in February, he campaigned for two consecutive days in PHL and CLT – staying overnight in CLT. However, he did not use union funds while he was campaigning. As evidence, Hummel submitted a receipt showing that he paid for his own hotel for the night he spent in CLT. Additionally, the record reflects that he did not receive any per diem during the month of February.

With respect to [REDACTED] and [REDACTED] similarly, no witness supported your allegation that [REDACTED] or [REDACTED] campaigned in prohibited areas at either airport. There is no evidence that Bradford was ever at the PHL airport, and he denies being there during the election period. The investigation showed that [REDACTED] was in the CLT crew room once during the election period and spoke with a few pilots, but no campaigning occurred.

[REDACTED] was the campaign manager for Hummel and [REDACTED] and maintains that he campaigned in front of a restaurant located across from the bag room at the CLT airport in a public area. Again, no witness verified that Hummel, [REDACTED] or [REDACTED] campaigned in prohibited areas of either the CLT or PHL airport. There was no violation of the LMRDA.

You alleged that the Hummel and [REDACTED] website contained a picture along with the union logo, thereby giving the impression that USAPA endorsed the two candidates, in violation of section 401(g) of the LMRDA. Section 401(g) prohibits the use of union resources to promote the candidacy of an individual in the election.

The investigation revealed that Hummel and [REDACTED] website contained a link directing the viewer to the union's official voting website. Once the viewer clicked on the link, instead of being redirected to the union's voting website, the union's site appeared in a separate window, while the candidates' website was still in view. This does not constitute a violation of the LMRDA. Our investigation revealed that the logo was located on the union's voting website and not the candidates' website. In fact, only

one member claimed to have seen the two sites paired together, and the image he provided of the website was not clear. Moreover, once notified of the potential problem, in less than 48 hours the link to the voting website had been removed. Under these circumstances, there was no violation of the LMRDA.

You alleged that Hummel's and [REDACTED] campaign literature was distributed by supporters who used an email list that was not equally available to all candidates. You specifically complained that *Compass Correction*, a blog and email forum, distributed campaign literature using the blog's email list. The LMRDA requires that unions treat candidates equally with respect to distribution of campaign material and use of union lists. See 29 U.S.C. § 481(c).

The investigation revealed that the *Compass Correction* email list was created by the blog's founders in 2007 before the formation of USAPA. It was not a union list such that the right to equal treatment with respect to the list arises. Moreover, there is no evidence that the incumbent officers used the *Compass Correction* list.

The investigation revealed that in emailing their literature, Hummel and [REDACTED] used a 2007 list created and made available to them as well as other volunteers in the organizing efforts during the precertification period of USAPA. You never requested nor were denied use of either the *Compass Correction* email list or the list used by Hummel and [REDACTED]. Therefore, the evidence does not provide an adequate basis for finding that there was a violation that may have affected the election outcome.

Further, the Department's investigation revealed that all candidates had access to the union's official membership list, which included all USAPA members and their email addresses. You used the current membership list to send out campaign literature on eight or nine different occasions during the election period. No violation.

For the reasons set forth above, it is concluded that no violation of the LMRDA affecting the outcome of the election occurred. Accordingly, the office has closed the file on this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

cc: Gary Hummel, President
U.S. Airline Pilots Association

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