



July 29, 2013

[REDACTED]

Dear [REDACTED]

The Statement of Reasons is in response to the complaint that you filed with the Department of Labor on May 14, 2013, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), as made applicable to federal sector unions by § 29 C.F.R. 458.29 and the Civil Service Reform Act of 1978, 5 U.S.C. § 7120, occurred in connection with the re-run election for president for Government Employees AFGE AFL-CIO, Local 2065 completed on April 17, 2013.

The Department of Labor 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 that has not been remedied.

You alleged that incumbent President Albert Burgess' supporters solicited email addresses, claiming to want to mail contract information, but subsequently used those email addresses to campaign. Section 401(c) of the LMRDA requires unions to refrain from discrimination in favor of or against any candidate in the use of lists of members.

The investigation determined that Chief Steward [REDACTED] sent emails to the members of Local 2065, requesting personal email addresses in order to provide contract information. He then used those personal email addresses to campaign for Burgess, without making the list available to other candidates. [REDACTED] use of the email addresses to campaign for Burgess was a violation of Section 401(c) of the LMRDA. However, the union remedied the violation when, in response to your complaint, the Election Chairman for the challenged election provided you with the email addresses used by [REDACTED] on March 15, 2013, more than one month before the election.

For the Department to seek to overturn an election there must be evidence that a violation occurred that has not been remedied. 29 U.S.C. § 482(c)(2). Thus, there was no violation of the LMRDA that would provide a basis for litigation by the Department.

You also alleged that Local 2065 Member [REDACTED] sent members an email that was inaccurate and misleading as to the reasons for the need to rerun the election. The

LMRDA does not regulate the content of campaign literature and misstatements in campaign literature may be addressed in opposing campaign literature. 29 C.F.R. § 452.70. Further, you filed a protest concerning this email with the Election Chairman, who provided you with the email addresses used by [REDACTED] on March 15, 2013, more than one month before the election. To the extent that the use of these email addresses may have constituted a discriminatory use of lists of union members, any violation was remedied by the Election Chairman. Moreover, you had ample opportunity to correct any inaccurate or misleading information contained in the campaign material. Thus, there was no violation of the LMRDA that would provide a basis for litigation by the Department.

For the reasons set forth above, the Department has concluded that there was no violation of Title IV of the LMRDA that was not remedied, and I have closed the file in this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

cc: J. David Cox, National President
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