



June 12, 2014



Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed with the Department of Labor on October 17, 2013, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the election of officers of the New York Local of the Screen Actors Guild-American Federation of Television and Radio Artists (SAG-AFTRA) conducted on August 16, 2013.

The Department of Labor conducted an investigation of your allegations. As a result of the investigation, the Department concluded that there were no violations that may have affected the outcome of the election.

You alleged that the election results were not posted at the local office. Section 401(e) requires that election results be published. 29 U.S.C. § 481(e). However, the manner in which a union accomplishes publication is left to the labor organization. 29 C.F.R. § 452.108. The investigation disclosed that the election results were posted on the local's website in accordance with its election policy. There was no violation.

You alleged that candidates were not informed of the election results by letter, phone, or email or posting as of August 19, 2013. The investigation disclosed that the election results were immediately conveyed to candidates on August 16, 2013, via email and by hand-delivery to all candidates present at the conclusion of the tally. In addition, candidates, as well as other members, were able to view the election results on the local's website. There was no violation.

You alleged you were not informed of the date and location of the counting of the ballots. Section 401(c) mandates that candidates have the right to have an observer at the polls and the counting of the ballots. Critical to having observers present at the tally is providing candidates with notice of the tally date and location. The investigation disclosed that the local sent an e-blast to all candidates, including you, providing such information. There was no violation.

You alleged you were not able to adequately observe ballots that had been opened, the counting of the ballots, or the scanning process on the voting machines. The candidate's right, under section 401(c) of the LMRDA, to have an observer encompasses every phase and level of the counting and tallying process, including the counting and tally of the ballots, the totaling, recording, and reporting of tally sheets. 29 C.F.R. § 452.107. Observers should be placed so that they do not compromise, or give the appearance of compromising, the secrecy of the ballot, 29 C.F.R. § 452.107, but must be able to effectively observe the ballot counting process.

The investigation revealed that observers were required by the election rules to stay in a designated area of the tally room at a distance from which they could not read the ballots or see the monitors displaying the scanned ballots. The observer rules explicitly advised that observers to remain within the specified area and the rules were reinforced by the election committee members and Integrity Voting Systems personnel at the tally. These restrictions did not afford all observers effective observation of the tally process in violation of the LMRDA.

As a result of the observer restrictions, the Department carefully reviewed the election records for evidence of irregularities. Specifically, the Department examined the ballots for inconsistent or suspicious markings, indentations, unusual vote patterns, erasures, and other signs of manipulation. The examination found no signs of ballot fraud or other irregularities. As part of its investigation, the Department recounted the ballots and found no irregularities in the ballot tally. The recount confirmed the election results and the investigation determined that the tally was accurately conducted. Based on the review of election records, the Department concluded that the restrictions placed on observers did not affect the outcome of the election.

You alleged that the ballot count was suspended, continuing the following day without the local securing the ballots overnight. Section 401(c) requires unions to provide adequate safeguards to ensure a fair election. The investigation disclosed that there was no suspension of the tally. Rather, the tally commenced upon collection of the ballots from the post office box at 9 a.m., August 15, 2013 and continued until its conclusion at 3 a.m., August 16, 2013. At all times, the election committee was present throughout the tally, as were a number of observers. There was no violation.

You alleged that upon the submission of your nominations petition on June 21, 2013, the union retaliated by acting in concert with various employers to deny you employment. As evidence, you pointed to the 170 casting positions for which you applied but were rejected save for one job. Section 401(e) provides in relevant part that every member in good standing shall be eligible to be a candidate without being subject to reprisal of any kind by his or her union. The investigation disclosed that the union has no hiring hall that provides jobs for members; members are required to find their own employment.

The union denies any influence in its ability to provide any member with work; you provided no credible evidence that the local has any influence with prospective employers and that it used such influence to deny you employment. Significantly, the union did not prevent you from running for office. There was no violation.

For the reasons set forth above, your complaint to the Department is dismissed, and I have closed the file in this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

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