



December 16, 2015

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the United States Department of Labor (Department) dated August 17, 2015, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA or Act), 29 U.S.C. §§ 481-484, occurred in connection with the election of officers conducted by the International Association of Sheet Metal, Air, Rail and Transportation Workers (SMART), Local Union 18 (Local 18) on June 22, 2015.

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 there was no violation of the Act that may have affected the outcome of the election.

You alleged that Business Agent Scott Bartz interfered with members' right to vote for certain candidates by making threats to withhold preferential job information. Specifically, you alleged that while campaigning on your behalf at the Madison polling site, [REDACTED] overheard Bartz ask a member, "Where is your buddy?"; and yell, "Tell him to get his butt down here or there will be no more hot tips!" Section 401(e) of the LMRDA gives every member in good standing the right to vote for or otherwise support the candidates of his or her choice without being subject to penalty, discipline, or improper interference or reprisal of any kind by the union or any member.

The Department's investigation revealed that on the day of the election, Bartz observed a member [REDACTED], whom he knew personally, arrive at the polling site. Bartz asked him the whereabouts of retired member [REDACTED] and told [REDACTED] to tell [REDACTED] to come vote. The three men had been together the previous weekend and [REDACTED] had indicated that he and [REDACTED] would be coming together to the polls. [REDACTED] arrived at the polling site later that same day to vote. In interviewing several members, including the individual who allegedly overheard the "hot tips" remark at issue, no one supported the allegation that Bartz used the term "hot tips" or threatened any member in any way. When interviewed, [REDACTED] admitted that she was unsure if Bartz used the term "hot tips" and was actually unable to decipher the term he used when she overheard the conversation. Moreover, the investigation disclosed that [REDACTED] is a retired member. Even if Bartz had threatened to withhold "hot tips" or job information, the fact that [REDACTED] was retired negates any real threat. There was no violation of the Act.

You alleged that at least five business representatives and one organizer participated in “organized” campaigning coordinated by the incumbent Business Manager candidate Patrick Landgraf. You claimed that the campaigning occurred on union time. Section 401(g) of the LMRDA prohibits the use of employer and union funds to promote the candidacy of any person in an election covered by the Act.

The Department’s investigation revealed that you based your allegation of campaigning on union time on the fact that business representative Keith Kemper had an altercation with a member while campaigning, and Kemper subsequently filed internal charges against the member claiming that the member had interfered with “an officer performing duties to which he was elected.” Despite Kemper’s allegation, however, the Department obtained email records showing that the union officials, including Kemper, requested and were approved to use vacation time for either the entire day or the afternoon of June 22, 2015. Accordingly, the union officials at issue were not on union time while campaigning. There was no violation of the Act.

For the reasons set forth above, it is concluded that there was no violation of the LMRDA that may have affected the outcome of the election. Accordingly, the office has closed the file on this matter.

Sincerely,

Sharon Hanley
Chief, Division of Enforcement

cc: Joseph Sellers, Jr., General President
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