



January 26, 2015

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed with the U.S. Department of Labor on February 20, 2014, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the election of officers of Teamsters Local 384 conducted on October 24, 2013.

The Department of Labor conducted an investigation of your allegations, and as a result of the investigation, concluded that there was no violation that may have affected the outcome of the election.

You alleged that the local placed improper restrictions on observers when it placed observers six feet from the tally tables and ballots were placed face-down during the counting process. Section 401(c) of the LMRDA provides, in relevant part, that candidates have the right to have an observer at the polls and at the counting of the ballots. The right to observe includes the right to effectively observe the ballot tally.

The investigation disclosed conflicting statements as to whether with the six feet distance from the tally tables, observers could view the ballots. Even assuming, *arguendo*, that ballots could not be effectively observed, which would be a violation, the Department of Labor investigation did not reveal any violation of the LMRDA attributable to the ballot tally. The Department conducted a recount of the ballots, which reconciled with that of the union. There was no violation that may have affected the outcome of the election.

You alleged that the ballots were not properly counted because casting a slate vote would override a vote cast for an individual candidate. You assert that the slate override procedure is contrary to the Department's publication entitled "Conducting Local Union Officer Elections," which requires a union to count any ballot where the voter's intent is clear.

The union's slate override feature does not conflict with the Department's regulation concerning determining the validity of the ballot, 29 C.F.R. § 452.116. That regulation provides that unions may establish reasonable rules for determining the validity of the ballots cast in an election. Teamsters Local Union 384, 2013 Election Rules (Election Rules), No. 17, provides, in full, that "slate votes will take precedence over individual votes. If the member should vote for a slate and additional candidates, the slate vote shall be the only vote counted." A slate override rule is not unreasonable where the ballot instructions are clear and clearly inform voters of how to also cast a valid ballot for individual candidates. The election rules and voting instructions in the instant case were clear. There was no violation.

You alleged that eighty-one (81) members were denied the right to vote when their challenged ballots were not included in the tally. Section 401(e) provides, in relevant part, that every member in good standing shall have the right to vote.

Investigation disclosed that the 81 ballots were challenged for dues payment issues. The union took no other action with respect to these ballots because Election Rule, No. 20, provided that if the total number of unresolved, challenged ballots could not affect the outcome of the election, then the challenged ballots will be disregarded.

OLMS investigation confirmed that the 81 ballots were properly challenged based on voter eligibility and the investigation disclosed no other information that these ballots should have been counted. There were large margins for every contested position, with the lowest margin of victory being 235 votes in the election of President. Therefore, the eighty-one challenged ballots would not affect the outcome of the election.

You alleged that the local failed to secure the ballot box subsequent to the completion of the tally. Section 401(c) provides, in relevant part, that a union must provide adequate safeguards to ensure a fair election. Such safeguards encompass every aspect of a union's ballot procedure, including securing its election records. *See* 29 C.F.R. § 452.110.

The investigation disclosed that the election materials, including the ballot box, were secured in a sealed box that was taped and signed by election officials and candidates, except yourself, because you left the tally premises before the sealing of the ballot records. There was no violation.

For the reasons set forth above, it is concluded that there was no violation of the LMRDA affecting the outcome of the election, and I have closed the file in this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

cc: James P. Hoffa, General President
International Brotherhood of Teamsters
25 Louisiana Avenue, SW
Washington, DC 20001

Michael Bonaduce, President
Teamsters Local 384
2910 Hannah Avenue
Norristown, PA 19401-1531

Christopher Wilkinson, Associate Solicitor for Civil Rights and Labor-
Management