



January 29, 2015



Dear [REDACTED]:

This Statement of Reasons is in response to your February 13, 2014 complaint filed with the U.S. Department of Labor 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 Transport Workers Union (TWU) conducted on September 24, 2013.

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 LMRDA affecting the outcome of the election.

You alleged that the union violated its constitution and bylaws and the LMRDA by improperly applying a candidate eligibility rule in the TWU Local 100 delegate election which affected the TWU national officer election. Section 401(e) of the LMRDA requires that unions conduct officer elections in accordance with the union's constitution and bylaws. Article XI(d) of Local 100's Bylaws stated that members who had an "application pending for a supervisory non-bargaining unit position, or who is serving in such a capacity . . . shall not be eligible to run for or hold office."

As you know, Local 100 agreed in a December 5, 2013 Stipulation and Order issued by the Southern District Court of New York that Article XI(d) would be repealed. Even if the candidate eligibility rule was improperly applied, there was no violation affecting the outcome of the election because national officer candidates did not need to be local delegates in order to run for office.

You also alleged that Local 100 violated the TWU Constitution when it had its delegate election in December 2012, rather than after the April 2013 convention call. You claim that this prevented members who paid their dues arrearages between December and April from seeking election as delegates/officers. However, the TWU Constitution does not specify a timeframe for local unions to hold delegate elections nor does it contain any language prohibiting locals from holding delegate elections prior to the April 2013 convention call.

Local 100 held officer elections in December 2012 because it had amended Article XI(e) of the Local 100 Constitution to require officer and delegate elections to be conducted simultaneously, and delegate elections were also scheduled for December 2012. Further, you acknowledged that members who paid their arrears immediately before the April 2013 convention call would not have satisfied the twelve months continuous good standing requirement for nomination. Thus, there was no violation of the constitution and bylaws or Section 401(e) of the LMRDA.

You further alleged that the union improperly permitted Local 100 members [REDACTED] and [REDACTED] to run for union office after they applied for promotional supervisory jobs, in violation of Article XI(d) of Local 100's Bylaws, and to serve as delegates at the TWU National Convention. Section 401(e) of the LMRDA also requires unions to uniformly impose reasonable qualifications for officer candidacy.

The investigation revealed that although [REDACTED] and [REDACTED] applied for supervisory positions in February 2012, the Election Committee was unable to accurately verify eligibility because promotional lists were not established for those positions before the nominations period. However, [REDACTED] was unsuccessful in the delegate election. The evidence indicates that [REDACTED] was permitted to run and serve as a delegate.

The investigation disclosed that at the TWU National Convention, delegates stood to indicate their vote for each of the six contested Executive Board Member races. According to the TWU Constitutional Convention Rules, no roll call was required to memorialize the tally unless the margin in favor of the losing candidate appeared to be over thirty percent of the 394 delegates present at the Convention, or more than 118 delegates. Because no candidate lost a race while garnering more than thirty percent of the vote, [REDACTED] sole vote could not have tipped the margin on any race. There was no violation affecting the outcome of the election.

Finally, you alleged that on or around September 24, 2013, TWU 100 improperly used delegates on union time to promote candidates at the TWU National Convention. Section 401(g) of the LMRDA, prohibits the use of labor organization funds – including union money, facilities, equipment or supplies – to promote the candidacy of any person in union officer elections.

There was no evidence of delegates campaigning or use of any other union resources such as facilities, equipment, or supplies to aid any candidate during the Convention. Further, TWU does not require delegates to take unpaid leave to attend conventions. There was no violation of the LMRDA.

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: [REDACTED], International President
Transport Workers Union of America
501 3rd Street, N.W., 9th Floor
Washington, D.C. 20001

Christopher B. Wilkinson, Associate Solicitor for Civil Rights and
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January 29, 2015



Dear [REDACTED]:

This Statement of Reasons is in response to your February 15, 2014 complaint filed with the U.S. Department of Labor 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 Transport Workers Union (TWU) conducted on September 24, 2013.

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 LMRDA affecting the outcome of the election.

You alleged that in September 2013, TWU violated its constitution and bylaws and the LMRDA by improperly allowing TWU Local 100 delegates to attend and campaign for candidates for union office at the TWU National Convention election at a time when TWU Local 100 was in arrears in its payments to the international union.

Section 401(e) of the LMRDA, requires that unions conduct officer elections in accordance with the union's constitution and bylaws. Article XI, Section 5 of the TWU Constitution and Bylaws states that local unions that are in arrears on per capita payments on the seventh day prior to the opening of the Convention are not entitled to representation at the Convention.

The Department's review of records substantiated that Local 100 made per capita payments from January 2013 until the Convention and was not in arrears seven days prior to the Convention. As such, there was no violation of the TWU Constitution and Bylaws or Section 401(e) of the LMRDA.

You also alleged that even if Local 100 was not in arrears in per capita payments that Local 100 sent more delegates to the Convention than they were authorized by the TWU

Constitution and Bylaws. Article XI, Section 3 of the TWU Constitution and Bylaws delineates the calculation for the number of delegates allowed at the Convention for each local union based upon the average of the paid and exonerated membership of the local union for the last three months prior to the convention call. The 2013 TWU Convention call was issued in April 2013. Local 100 had 38,593 total members in January 2013, 38,615 total members in February 2013, and 38,683 members in March 2013. As a result, Local 100 had an average of 38,630 members for the last three months prior to the issuance of the Convention call.

Based on Article XI, Section 2(a), which provides that there be one delegate for the first 300 members and one additional delegate for each additional 300 members, Local 100 was entitled to 129 delegates and sent 129 delegates to the Convention. Delegate representation under the TWU Constitution and Bylaws is based on the average number of paying members, not the total number of members in good standing. As such there was no violation of the Constitution and Bylaws or Section 401(e) of the LMRDA.

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: [REDACTED] International President
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Division