



April 20, 2016

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed on August 21, 2015, alleging that a violation of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) occurred in connection with the election of officers conducted by United Auto Workers Local 1781, AFL-CIO, on April 17, 2014.

The Department of Labor (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 that may have affected the outcome of the election.

You alleged that nominations were not held 30 days before the election. The LMRDA specifies no time intervals between nominations and the election. Nominations and the election may even be scheduled to be held at the same meeting, as long as the union complies with the requirements of section 401(c) of the LMRDA, including affording members who intend to run for office sufficient opportunity to campaign. 29 C.F.R. § 452.65. A review of the UAW Constitution, Local 1781 Bylaws, and the UAW's Guide for Local Union Election Committees (UAW Guidelines) also does not reveal any rules requiring a 30-day period between nominations and the election.

You alleged that you did not have enough time to campaign because there were only eight business days between the April 4, 2014 candidates' meeting and the April 17, 2014 election. A review of the UAW Constitution, Local 1781 Bylaws, and the UAW Guidelines does not reveal any rules that set the time for candidates' meetings or that limit the time for a candidate to campaign. Rather, Article XIV, Section 4, of the Local 1781 Bylaws requires that the election notice must be provided to the membership at least 15 days in advance of the election and that at least 7 days elapse between the time of the nominations and date of the election. Nominations were held on March 20, 2014, 28 days before the April 17, 2014 election. A union member need not be formally nominated in order to be bona fide candidate entitled to campaign. During the

investigation, you acknowledged that you could have held a meet-and-greet before the candidates' meeting on April 4, 2014, and that you did inform members before the candidates' meeting that you were running for president. There was no restriction on your right to campaign and, thus, no violation of the LMRDA.

You next alleged that members of the mostly incumbent ELITE Team slate intimidated voters at the Blue Care Network (BCN) polling site on April 17, 2014. In support of your allegation, one of your witnesses, [REDACTED], contends that she was in the act of handing literature to a voter when Financial Secretary candidate Stephanie Thornton slapped the voter's hand and told her not to take the literature. According to [REDACTED], Thornton then handed the voter her own literature. [REDACTED], contends that she witnessed members of the ELITE Team "slapping" literature into people's hands and telling them to vote for the ELITE Team. Thornton denies that she was aggressive toward any member, that she took literature from a member, or that she steered members away from other candidates. She acknowledged that she handed out literature and campaigned to the members whom she drove to and from the BCN polls. Sergeant-at-Arms candidate Tiffany Bush acknowledged that she was at the BCN polling site during the entire day of the election and passed out literature in the designated campaigning area outside of the polling room. Bush denies intimidating or threatening any members at the polling site, taking away or slapping literature out of any of the members' hands, and witnessing or hearing of anyone else behaving in this manner at the polling site. She further stated that she was not aware of anyone who was afraid to vote because of any of the candidates' actions. You acknowledged that you were not present at the BCN polling site. Also, you were not able to identify any members who might have been intimidated, and the investigation did not reveal any evidence corroborating that voters were intimidated by the ELITE Team members. The weight of the evidence does not support a finding of probable cause that there was a violation of the LMRDA.

You alleged that ELITE Team members were given an unfair advantage by being permitted to campaign on company time at the Blue Cross Blue Shield of Michigan (BCBSM) facility while you were denied a similar opportunity. Section 401(g) of the LMRDA provides that no money of an employer is to be contributed or applied to promote the candidacy of any person in an election subject to the provisions of Title IV. This prohibition against the use of employer money includes any costs incurred by an employer, or anything of value contributed by an employer, in order to support the candidacy of any individual in an election. This prohibition would include campaigning on company time in the work areas. 29 C.F.R. § 452.78. The investigation established that the BCBSM Policy Memorandum provided to the Department by BCBSM's Legal Counsel confirmed that candidates are not allowed to campaign on company time or in work areas. However, candidates are permitted to campaign in common areas such as the lunch room and break areas during non-work hours.

Candidates are allowed to leave campaign material on employee desks before work (6:00 a.m.) or after work hours (7:00 p.m.) and hold events in the company's common area.

In support of your allegation of disparate treatment of candidates, you alleged that Stephanie Thornton, a member of the ELITE Team and a candidate for the office of Financial Secretary, gained an unfair advantage when she was able to campaign on floors at the BCBSM work facility without interference. The investigation established that several members observed Thornton alone and at times escorted by members of the ELITE team around the BCBSM facility. These members, however, did not observe Thornton campaigning or observe any campaign literature in her hands. Thornton acknowledged that she campaigned by the BCBSM guard station, in the 16<sup>th</sup> Floor cafeteria, and in the Food Court while she was on her own time and primarily during members' lunch time from 11:30 a.m. to 2:30 p.m. Thornton denies campaigning during working hours in working areas.

A review of Thornton's attendance records reveals that she took leave on the days that she was observed at the BCBSM facility and on the day of the election. The investigation included an analysis of the facility's badge swipes. This analysis revealed that Thornton visited the third and six floors. While it is possible that she campaigned to employees while they were in work status, rather than on their lunch hour, there were a total of 63 Local 1781 members on both the third and six floors of the BCBSM facility, but only 46 of these members voted in the election. To the extent that Thornton may have engaged in campaigning in violation of the LMRDA, there could be no effect on the outcome of the election because she won by 53 votes in the initial election for the financial secretary position.

You also alleged that ELITE Team members interfered with your attempts to campaign at the BCN work site. In support of your allegation of interference, you provided an example of two campaign events at the BCN polling site. The investigation revealed that you and other independent candidates held two events in the cafeteria at that site on April 9 and 16, 2014, between the hours of 11:30 a.m. and 1:30 p.m. The investigation revealed that during the first event, someone called security to report that you were playing your music too loudly. The security guard approached your table, but told you that your music was not too loud and called in a report that there was no problem. There is no evidence that you ceased campaign activity because of the incident. Moreover, no voters witnessed this incident. At the second event, the investigation revealed that you went to one of the floors of the BCN work site where members were working to invite them to the event. You were asked by a manager to leave, and you left the floor voluntarily. Inasmuch as candidates are not allowed to campaign on company time or in work areas, the manager's request that you leave the work area was

consistent with the campaign rules. There was no evidence of interference. There was no violation of the LMRDA.

You alleged that no effort was made to obtain updated addresses on returned nomination/election notices, so that the returned notices could be re-mailed. The union must make sufficient reasonable efforts to update its membership list as part of its duty, under section 401(e) the LMRDA, to mail a notice of election to each member's last known home address not less than 15 days prior to the election. Taking reasonable efforts includes attempting to re-mail notices returned as undeliverable and, at minimum, to re-mail those where the union is provided a forwarding address.

The investigation established that Local 1781 mailed postcards containing the nomination and election notice to the members on March 10, 2014. The investigation revealed that then-Local 1781 [REDACTED] received undeliverable postcard notices each day during the two-week period after the election notice postcards were mailed. She re-mailed notices with updated addresses. [REDACTED] gave returned notices without updated addresses to Election Committee (EC) Co-Chair [REDACTED]. [REDACTED] compared the addresses on the returned notices to the union's updated membership list provided by the financial secretary and updated addresses where possible. [REDACTED] gave a number of notices with updated addresses to EC Chair [REDACTED]. [REDACTED] confirmed that multiple notices were re-mailed with updated addresses. The union, for the most part, took appropriate action to find updated addresses with respect to returned undeliverables. However, a review of the returned notices contained in the union's records did reveal that two notices were returned with a yellow address sticker containing a new address and that these two notices were not re-mailed to the new address. The union's failure to re-mail these two ballots did not affect the outcome of any race. There was no violation affecting the outcome of the election.

You alleged that the location of the South Lyon polling site was not posted until the day before the election, if it was posted at all. The notice required by Section 401(e) of the LMRDA must include a specification of the date, time, and place of the election and of the offices to be filled. 29 C.F.R. § 452.99. The Department's investigation established that the combined nominations/election notice listed the polling location at South Lyon as "ON-SITE." It was common practice for Local 1781 to list this as the polling site on the notice and to notify members of a specific location in the building, usually the cafeteria, closer to the day of the election. The polling was held in the cafeteria. There were signs posted on the door of the cafeteria and on union bulletin boards indicating the location of the polling site. Moreover, members must walk past the cafeteria to exit the building, so all members should have been aware of where to vote. The investigation revealed that 16 of the 23 members who work at South Lyon voted at the South Lyon polling site. There was no evidence that South Lyon members did not vote

because they did not know the specific on-site location of the polling site. There was no violation.

For the reasons set forth above, the Department has concluded that there was no violation of Title IV of the LMRDA that may have affected the outcome of the election, and I have closed the file regarding this matter.

Sincerely,

Sharon Hanley  
Chief, Division of Enforcement

cc: Dennis Williams, International President  
United Auto Workers  
8000 East Jefferson Avenue  
Detroit, Michigan 48214

Tina Gates, President  
UAW Local 1781  
21411 Civic Center Drive, Suite 202  
Southfield, Michigan 48076

Beverly Dankowitz, Acting Solicitor  
Civil Rights and Labor-Management