



August 30, 2016

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your complaint to the Department of Labor, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), occurred in connection with the December 5, 2014 election of union officers held by Local 138 (local or Local 138), American Postal Workers Union (National).

The Department of Labor (Department) 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 no one verified the vote totals that the election committee chair transcribed from the tally sheets to the master list before the election committee chair sealed the master list in an envelope. Section 401(c) of the LMRDA provides that adequate safeguards to insure a fair election shall be provided, and those safeguards need not be included in a union's constitution and bylaws, but they must be observed. 29 U.S.C. § 481(c); 29 C.F.R. § 452.110. The Department of Labor investigation included a review of election records. The investigation substantiated that mistakes in the transposition of tally figures from tally sheets to the master list were made for two officer positions. Jonny Jenkins, who successfully ran for sergeant-at-arms, should have received ten additional votes, and his opponent should have received one additional vote. The error did not affect the outcome of this election. A similar transposition error was made for the third winner for trustee, Tim Hardorn, who should have received 11 additional votes. Again, this error had no effect on the outcome of the election for any of the three elected trustees.

You alleged that the counters submitted tallies with no one else noting the figures, which could have led to election committee members manipulating the vote totals. Section 401(c) of the LMRDA provides that adequate safeguards to insure a fair election shall be provided. 29 U.S.C. § 481(c). The investigation disclosed that counters worked in pairs, with each taking a turn counting the ballots. If the pair had matching tallies, as

was the case in the majority of the tallies, the ballots were placed in an envelope with two tally sheets, one from each counter, and provided to the election committee chair. In those few instances where the pair's tallies did not match, they each recounted the ballots and, if the difference persisted, informed the election chair. The Department recounted all the ballots and reviewed all counters' tally sheets. No discrepancies were found on any tally sheets. There was no violation.

You alleged that the local failed to separate the ballots by craft and failed to provide election results by craft, in violation of Article 5, section 6 of the Northeast Florida Area Local constitution and Bylaws. Section 401(e) provides that an election shall be conducted in accordance with the constitution and bylaws of the labor organization insofar as they are not inconsistent with the provisions of Title IV. Subsection (a) of Art. 5, Section 6 of the union's constitution provides that "[t]he election committee shall separate the returned ballots according to craft and each craft shall be counted separately, thus assuring that Craft Directors are elected by members of that particular craft only. The votes for other Officers elected overall shall be combined for a final total." The investigation disclosed that the election committee separated each ballot by craft, as each returned ballot envelope bore the name of the voter, address and craft affiliation. There was no violation.

You alleged that the election counters used two different methods to count ballots, alternating between the call method and the stack method during the tally. No provision of the LMRDA or the union constitution provides that counters must use one method over the other or prevents counters from using a combination of these two methods. There was no violation.

You alleged that the local improperly permitted candidates' spouses and a retired officer to serve as counters. No provision of the LMRDA or the union constitution prohibits candidates' spouses or retirees from serving as counters. Further, observers were present during the tally, and no irregularities were reported. There was no violation.

You alleged that the ballots were left unsecured and unattended for over ten minutes during a building evacuation. Section 401(c) of the LMRDA provides that adequate safeguards to insure a fair election shall be provided. 29 U.S.C. § 481(c); 29 C.F.R. § 452.110. The investigation disclosed that the ballots were secure at all times. During a dinner break at about 5:45 pm, the election committee and counters left the tally room for an adjoining room. The tally room had only one open door; that door was guarded by an officer from the sheriff's department, hired specifically for that purpose. That officer ensured that no one entered the tally room during the dinner break. At about 6:30 pm, the hotel fire alarm rang. After everyone evacuated the tally room, the election committee chair and the officer had the tally room door locked by a hotel maintenance

person. The election committee chair and the officer were the first to return to the tally area ten to fifteen minutes later and had the same maintenance person unlock the tally room door. The Department's review of the ballots did not show and you did not allege that any ballot tampering occurred. The local provided adequate safeguards to ensure a fair election. There was no violation.

You alleged that the local permitted candidates to run for an office and a delegate position, in violation of the local bylaws. The LMRDA provides that an election shall be conducted in accordance with the constitution and bylaws of such organization insofar as they are not inconsistent with the provisions of Title IV. Article IV, section 8 of the union constitution provides "[n]o member of this Local shall be a candidate for more than one (1) elected position." The International has interpreted this provision to mean that no candidate may run for two officer positions. The International does not include delegate positions within its definition of officers. The interpretation consistently placed on a union's constitution by the responsible union official will be accepted unless the interpretation is clearly unreasonable. See 29 C.F.R. § 452.3. The International's interpretation is not clearly unreasonable given that Article IV, section 2 of the constitution differentiates between constitutional officers, those positions identified as officers within section 2, and delegate positions. The interpretation is not conflict with the LMRDA. The LMRDA, under certain circumstances, provides requirements for the election of delegates but does not, itself, equate the term delegate with the term officer. 29 C.F.R. § 452.22. There was no violation.

For the reasons set forth above, it is concluded that no violation of the LMRDA occurred. Accordingly, the office has closed the file in this matter.

Sincerely,

Sharon Hanley  
Chief, Division of Enforcement

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