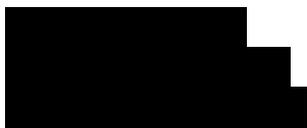




March 18, 2016



Dear [REDACTED]:

This Statement of Reasons is in response to your September 18, 2014 complaint filed with the U.S. Department of Labor (“the Department”) alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) occurred in connection with the election of officers conducted by the Amalgamated Transit Union, Local 1548 (“the Local”) on May 24, 2014.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded that no violation occurred. The following is an explanation of this conclusion.

In your complaint to the Department, you made several allegations concerning “the integrity of the election” because members of the incumbent slate had full access to the creation and distribution of ballots. You alleged that the incumbent officers created ballots on union office equipment, hand serialized ballot return envelopes and controlled the stuffing and mailing of ballots. Section 401(c) of the LMRDA requires that unions provide adequate safeguards to ensure a fair election. An important part of the adequate safeguards provision is proper distribution, handling, and counting of the ballots. Placing ballots in the custody or control of an official who is also a candidate in the election, as was done in this case; neither ensures the fairness of the election nor promotes the integrity of the balloting process as it provides an opportunity for ballot fraud or tampering. You did not specifically allege ballot fraud or tampering, and the Department of Labor investigation did not reveal any.

In investigating your allegations, the Department interviewed witnesses, reviewed the Local’s constitution and bylaws, and reviewed the ballot materials, including postal records. The incumbent president stated that he used the union computer to print 250 ballots and that he mailed 248 of these ballots. The union computer was used to print the ballots and ballot package materials because the computer contained the metered stamp program from the postal service. The president did not mail two of the 250

ballots after he learned that one member had left the union and another had died. The Department of Labor investigation revealed evidence supporting the president's statement. The Department's investigation verified that the incumbent officers printed 250 ballots with instructions, return envelopes, and ballot mailing packages. The investigation confirmed that 248 pieces of mail addressed to members were printed on May 7, 2014 with a metered mail date of May 10, 2014. The records included a list containing the names and addresses of the 248 members to whom ballots were sent. The two remaining ballots, even if improperly voted, would not have been enough to have affected the outcome of the election. The smallest margin of victory in the election was 3 votes. There was no violation of the Act that may have affected the outcome of the election.

You alleged that completed ballots were mailed to and held in the unsupervised custody of the incumbent candidates. You also alleged that ballots were mishandled, misplaced, replaced or miscounted. As support for your allegation, you submitted a petition including signatures from members attesting to having voted for [REDACTED], the [REDACTED], for President. The number of signatures on the petition was greater than the number of votes counted for [REDACTED]. While you did not specifically allege impropriety by the Local, you were concerned that ballot tampering could have taken place. The Department's investigation found that the ballots were addressed to the Local's current post office box and remained in the box until the incumbent President retrieved the ballots on May 23, 2014. The ballots were then locked in the union office overnight. The incumbent President retrieved and transported the ballots to the ballot tally at 9:00 a.m. the next morning. The incumbent officers followed the provisions in the Local's bylaws for securing ballots. According to the Local's constitution and bylaws, absent an election committee, the President and Financial Secretary Treasurer shall act as the election committee and shall see to it that the ballots are secured until the election meeting. However, placing voted ballots in the custody of a candidate for office runs contrary to the requirement that the union provide adequate safeguards to ensure a fair election.

Again, the investigation revealed no evidence of tampering with the voted ballots. Of the 248 ballots mailed 191 were returned. Those 191 were examined for evidence of similar markings, similar ink, and indentations indicating that a number of ballots had been voted at the same time. There was no evidence of ballot tampering or fraud. The Department also conducted a recount of the ballots for all offices. The recount validated that the declared winners in each race received the majority of the votes. The Department's review of the ballot return envelopes confirmed that the return envelopes had been properly validated and there was no evidence of tampering. After-the-fact evidence of how someone cast a ballot is inherently unreliable. Courts have found such evidence is not probative.

The Department reviewed the petition of [REDACTED] supporters and conducted interviews of members. The Department found that at least ten members who had signed the petition for [REDACTED] had either not cast a vote at all or returned their ballot too late to be counted. Even if all the remaining members signing the petition had voted for [REDACTED], it would not have changed the results of the election. There was no violation affecting the outcome of the election.

You also alleged that the anonymity of voters may have been compromised when the Local assigned numbers to ballot return envelopes that matched the alphabetical order of members' names. The LMDRA requires secret ballot voting. Particularly, with mail ballot voting, a union must take care to ensure that the member's name cannot be matched in such a way as to reveal the member's vote. In investigating your allegation, the Department reviewed the ballot records, and interviewed election tellers and members. The Department's investigation revealed that the return ballot envelopes were not in any order before starting the validation process. The ballots were also never placed in numerical order. The election teller read the number on each envelope to another teller, who then cleared the ballots with the voter roster. The pile of envelopes was then randomly separated between two tellers to open and remove ballots. The ballots were then removed and placed facedown. The removed ballots were then placed into one pile before being tallied. The election tellers were not able to match the votes with the members' name or identification number. There was no violation of the Act.

You also allege that no members were allowed to observe the opening of ballots or counting and tallying except as members of an audience. You allege that there was no way for these audience members to match the vote count against the ballots. You alleged that one member, [REDACTED], who was observing the tally, was told he could not come closer to the tally. The Act's adequate safeguards provision, cited above, provides that candidates have right to have an observer at the polls and at the counting of the ballots. The Department's investigation revealed that you were unable to attend the ballot counting but were never denied an observer. [REDACTED] did attend the tally and he was able to observe the count and how it was being done. He could not see the ballot markings. However, according to [REDACTED], he did not ask if he could move closer to observe. There was no evidence that improper restrictions were placed on an observer. There was no violation of the Act.

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

Sincerely,

Sharon Hanley
Chief, Division of Enforcement
Office of Labor-Management Standards

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