



January 13, 2016

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to your July 6, 2015 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 ("the LMRDA") occurred in connection with the election of officers conducted by the National Association of Letter Carriers, Branch 78 ("the Local") on December 10, 2014.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded that no violation occurred that may have affected the outcome of the election. Following is an explanation of this conclusion.

You alleged that you were never informed that candidates could have union members "put a free ad in the election edition" of the Local's newsletter. Section 401(c) of the LMRDA requires equal treatment in the expense of distributing campaign material. The Department's investigation revealed that no ads were placed in the newsletter for free. An earlier edition of the newsletter informed all members how they could take out ads for the election edition of the newsletter, and there was no indication that only candidates could take out such ads. The investigation revealed no disparate treatment between candidates, and thus there was no violation of the LMRDA.

Next, you suggested that a statement made about the number of retirees who voted in the election indicated that there was a violation of the ballot secrecy requirement of section 401(b) of the LMRDA. The evidence did not substantiate this allegation. The individual you identified denied making the statement about the number of retiree voters, and no election records segregated members based on active or retiree status. Therefore, there was no violation of the LMRDA.

You also alleged that a number of Local members did not receive ballots because the Local had failed to maintain a current mailing list, and that there was an inadequate system for obtaining replacement ballots. Section 401(e) of the LMRDA requires that

every member have the opportunity to vote in an election. The investigation did not substantiate these allegations. The evidence showed that the Local took reasonable efforts to maintain a current mailing list, took efforts to re-mail ballots returned as undeliverable and implemented a replacement ballot request system for members who did not receive a ballot in the mail. You identified certain members who were not able to obtain a replacement ballot. The investigation revealed that several of these members were, in fact, sent replacement ballots. Another of the identified members was not eligible to vote in the election and another told Department investigators that he chose not to seek a replacement ballot. Accordingly, there was no violation of the LMRDA.

You raised an allegation concerning your inability to obtain a list of the Local's retiree members. Specifically, you alleged that you sought and were denied such a list, but another candidate was given address information for retirees. Section 401(c) of the LMRDA requires labor organizations to "comply with all reasonable requests" to distribute campaign material. While a union does not have an obligation to provide candidates with lists of members, section 401(c) prohibits it from discriminating in the use of lists. The investigation revealed that the other candidate requested to separately mail campaign material to retiree members and, when the union's mailing service could not accommodate his material, was provided with mailing labels for the retirees. To the extent that the union's compliance with the other candidate's mailing request may have resulted in discriminatory access to a list of retirees, in violation of the LMRDA, the investigation determined that this could not have affected the election, as is required by the LMRDA before an election will be vacated. The investigation determined that, while you did request a list of retiree members, you did not intend to make a separate campaign mailing to the retirees. You did successfully mail campaign literature to the entire membership, including the retirees. In addition, you were not disadvantaged in your election. The candidate who received the set of retiree mailing labels was not your opponent, and his mailing did not involve campaigning for your opponent. Your opponent in the race neither requested nor received a retiree list,

Your complaint next alleged that ballots were not secured properly when returned to the Post Office. The investigation determined that the undeliverable ballots were returned to the Local Office, where they were received by the incumbent President, a candidate for office. The President then provided any forwarding addresses to the Election Committee, who in turn mailed replacement ballots. This handling of ballots by a candidate for office violated the requirement of section 401(c) of the LMRDA that labor organizations provide "adequate safeguards to insure a fair election." Nonetheless, there is no evidence that this violation may have had an effect on the outcome of the election. The number of ballots returned as undeliverable to the Local is consistent with the number of mailings returned as undeliverable to your campaign. Ballots returned as undeliverable remained unopened, and the election records confirm that forwarding addresses were accurately communicated to the Election Committee.

Voted ballots were sent to a Post Office box, for which the President had one of two keys. As with the President's role in handling undeliverable ballots, this was a violation of section 401(c) of the LMRDA. But, as with the undeliverable ballots, there is no evidence to support a conclusion that this may have had an effect on the outcome of the election. The President stated that the key was secured and not used, and the investigation revealed no evidence that the President ever used this key to open the Post Office box, or that the President played any role whatsoever in the collection of completed ballots.

Finally, you complained that you were not provided with the list of members used to verify eligibility at the election. The LMRDA does not require such a list be provided to you. Accordingly, there was no violation of the LMRDA.

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

Sincerely,

Sharon Hanley, Chief
Division of Enforcement

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