



January 12, 2016

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed on January 26, 2015, alleging that a violation of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) occurred in connection with the general election of officers conducted by the Utility Workers Union, Local 369 (Local or Union), AFL-CIO, on November 19, 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 [REDACTED], an opponent of yours for the position of business agent, sent two separate campaign emails from his company email to members' company email addresses on August 25, 2014 and September 16, 2014. You asserted that these emails constituted campaigning. Section 401(g) of the LMRDA prohibits the use of union and employer funds to promote the candidacy of any person in an election subject to the provisions of Title IV. 29 C.F.R. § 452.78. The Department's investigation revealed that [REDACTED] acknowledged sending the August 25, 2014 email in response to your July 26, 2014 email. He further stated that his September 16, 2014 email was sent to advise his constituents of several uncontested elections and that he would remain their executive board member until the ballots were counted.

The investigation established that you sent two emails using your employer's email address on July 26, 2014 and August 23, 2014, to an undetermined number of members. In the July 26, 2014 email, you provided members with a "Local 369 activity report," informed them about jobs that had been outsourced, and encouraged members to get more involved and attend membership meetings. You also acknowledged that you included the sentence, "A New Direction is Needed," in your July 26, 2014 email. You

stated that you included this sentence to encourage members to file Unfair Labor Practice charges and rally around the outsourcing issue, and acknowledged that this statement became your campaign slogan in your race for the office of Business Agent. In your August 23, 2014 email to Business Agent [REDACTED], you informed him that his August 20, 2014 email was not in compliance with the LMRDA. The Department's review of the content of both your and [REDACTED] emails reveals that, to the extent that [REDACTED] use of his employer's email system is a violation of the LMRDA, the violation is offset by your actions when you sent emails using the same employer's email system.

You alleged that on August 20, 2014, incumbent Business Agent [REDACTED] used a union email account to send a campaign-related email to approximately 200-400 members. The investigation established that [REDACTED] used his union computer to send his August 20, 2014 email in response to your previously discussed July 26, 2014 email, but the investigation did not reveal any evidence that the email was sent while [REDACTED] was on union time. To the extent [REDACTED] use of the union computer constituted a violation of the LMRDA, it was offset by your actions, as discussed above.

You further alleged that Business agent [REDACTED] used a union computer to send campaign-related Facebook messages to union members. The investigation did not reveal any evidence that Lynch posted any campaign material using Facebook. You acknowledged that you never saw the Facebook page, have no evidence of its existence, or of any witnesses who saw any campaigning on the union's Facebook page. There was no violation.

You next alleged that [REDACTED] used a union vehicle to campaign for candidates [REDACTED] and [REDACTED]. The Department's investigation did not reveal any evidence that [REDACTED] used his union issued vehicle to campaign on behalf of either candidate. You acknowledged that you relied on information that was reported to you, but you were unable to provide any evidence that [REDACTED], in fact, campaigned on behalf of these candidates. There was no violation.

You alleged that members at National Grid reported that not all of the mailed ballots were counted. The Department's investigation revealed that you requested a recount of the primary election ballots, and that during this recount, it was discovered that 40 ballots had not, in fact, been counted during the election. The evidence revealed that these ballots had been counted by one of the teller groups, tallied correctly on the tally, but had not been added to the master tally sheet. OLMS recounted the 456 ballots cast in the races for Executive Vice President and Business Agent and compared its count to the union's recounted ballots. With the exception of one (1) ballot that the Labor Guild counted as void, but that OLMS included in its count, the count was correct. The voided ballot OLMS included in the count increased [REDACTED] total vote by one vote, which would not have changed the fact that the candidates with the two highest numbers of votes, [REDACTED] and [REDACTED], were put on the ballot for the runoff election. You came in third place. You lost the second place position by 21 votes. 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

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