



December 18, 2018

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to your complaint filed on April 4, 2018, with the Department of Labor alleging that a violation of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA), 29 U.S.C. §§ 481-483, occurred in connection with the election of officers conducted by the International Brotherhood of Teamsters, Local 492 (Local 492 or Local), on December 4, 2017.

The Department of Labor conducted an investigation of your allegations. As a result of our investigation, the Department has concluded, with respect to your allegations, that there was no violation that may have affected the outcome of the election.

You alleged that the incumbent candidates had access to member email, address, and phone lists and may have used those lists to campaign. You also alleged that the union denied requests from [REDACTED], a candidate for vice president, and [REDACTED], a member, for a list of the Local's motion picture industry member names and contact information.

The Department's investigation did not substantiate your allegations. Section 401(c) of the LMRDA provides that every local labor organization shall provide adequate safeguards to insure a fair election and refrain from discrimination in favor of or against any candidate with respect to the use of lists of members. Article 17(I)(4) of Local 492's bylaws provide that the secretary-treasurer must establish a process for the mailing of campaign literature; that candidates must make a request; and all candidates must pay the reasonable cost for the mailing of campaign literature or materials. The investigation did not reveal any evidence that the Local provided any candidates or members with access to member email and home addresses to mail campaign materials. With regard to candidate [REDACTED], the Local's office manager, informed him that she could not give him a list of members and their addresses, but gave him the name of the printing company, Greetings Etc., that was responsible for campaign mailings. Sanchez stated that he did not contact Greetings Etc. With regards to [REDACTED]

request, the Local's recording secretary, [REDACTED], informed her that the local does not provide members' personal information to other members. There was no violation.

You alleged that the printer that handled the incumbents' campaign mailings may not have charged the incumbents or may have given them a discount in exchange for future printing business from the Local. Section 401(g) of the LMRDA provides in pertinent part that no moneys of an employer shall be contributed or applied to promote the candidacy of any person in an election subject to Title IV.

The Department's investigation did not substantiate this allegation. The investigation revealed that the incumbent slate contracted with Greetings Etc. to print and mail two campaign flyers and print a campaign postcard to hand out. Greetings Etc. charged the incumbent slate the current rate based on the quantity of materials printed. A Greetings Etc. official stated that the candidates paid in full for the invoiced amounts. The Local's secretary-treasurer, [REDACTED], confirmed that the incumbent candidates used personal funds for their campaign literature and mailings. There was no violation.

You alleged that the Local suppressed the vote by disqualifying otherwise qualified members from voting. Specifically, you alleged that members may have been afraid to vote against the incumbents because they did not want to risk being passed over for job referrals.

The Department's investigation did not substantiate your allegation that qualified members were disqualified or that members may have been afraid to vote against the incumbents. The secret ballot requirement in the LMRDA precludes any inquiry after the election into how particular persons voted in the election. The LMRDA provides for a secret ballot so that no member is intimidated and afraid to cast his or her vote. There was no violation.

You alleged that there was a "glitch" in the ballot mailing that resulted in members not being mailed ballots. In particular, you alleged that [REDACTED] did not receive a ballot. Section 401(e) of the LMRDA provides that in any election which is to be held by secret ballot . . . every member in good standing shall have the right to vote.

The Department's investigation did not substantiate your specific allegation. The investigation revealed that the Local hired MK Election Services to conduct the mail ballot election. On November 13, 2017, MK Election Services mailed 2,436 ballot packages to members using a mailing list provided by the Local. The Department's review of the election records revealed that 237 ballot packages were returned undeliverable, and that 129 of these returned ballot packages had forwarding address labels affixed by the U.S. Postal Service. [REDACTED]' name and address was on the mailing list the Local provided to MK Election Services [REDACTED] ballot package was not

returned undeliverable. The investigation disclosed, however, that MK Election Services neither re-mailed the 129 ballot packages to the forwarding addresses, nor made any efforts to find better addresses for the other returned undeliverable ballot packages so that these undeliverable ballot packages could be re-mailed to the members at better addresses. The Local's failure to re-mail the 129 ballot packages with forwarding address labels and to take reasonable efforts to secure better addresses for the other returned undeliverable ballot packages violated section 401(e) of the LMRDA. However, inasmuch as the smallest margin of victory in this election was 272 votes for the office of vice president, the 237 ballot packages that were returned undeliverable did not have an effect on the outcome of the election for any of the contested officer positions.

For the reasons set for the above, the Department has concluded that there was no violation of Title IV of the LMRDA that may have had an effect on the outcome of the election. I have closed the file regarding this matter.

Sincerely,



Sharon Hanley  
Chief, Division of Enforcement

cc: James P. Hoffa, General President  
International Brotherhood of Teamsters  
25 Louisiana Avenue NW  
Washington, DC 20001

Mike Butler, President  
Teamsters Local 492  
4269 Balloon Park Road NE  
Albuquerque, New Mexico 87109

Beverly Dankowitz, Associate Solicitor for Civil Rights and Labor-Management