



May 8, 2018



Dear [REDACTED]

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on January 9, 2018, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the election of union officers conducted by the Consolidated Rail System Federation (CRSF) of the Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters at the CRSF convention on September 17, 2017.

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

You alleged that incumbent officers Perry Geller, Sr., Perry Geller, Jr., Jesse Dewe, and Jason Graham improperly campaigned by attempting to persuade lodges to send incumbent officers rather than lodge members as delegates to the convention to avoid incurring expenses for attending the convention. You alleged that it was never mentioned that lodges were not responsible for delegates' expenses. Section 401(c) of the LMRDA prohibits disparate treatment of candidates for union office and requires a union to provide adequate safeguards to insure a fair election.

As a labor organization that chooses its officers by a delegate convention, CRSF is required by section 401(f) of the LMRDA to conduct the convention in accordance with its constitution and bylaws insofar as they are not inconsistent with the provisions of the LMRDA. See 29 C.F.R. § 452.2. Article II section 1(b)(4) of the CRSF bylaws provides as follows:

Each Lodge in good standing affiliated with the System Federation shall be entitled to be represented at the regular Convention of the System Federation by a delegate or alternate as herein before provided who is either a member in good standing of such Lodge or some Lodge affiliated with the System Federation; provided that no delegate may represent more than five hundred (500) members unless such members are all

members of one Lodge; further provided that he may represent as many Lodges as may elect him if the total membership so represented does not exceed five hundred (500) members.

The investigation disclosed that no delegate who was elected by more than one lodge represented more than 500 members: Dewe represented five lodges with a total of 133 votes; Geller represented nine lodges with a total of 341 votes; and Graham represented four lodges with a total of 110 votes. All other delegates represented only one lodge each. The bylaw in question is not inconsistent with the provisions of Title IV of the LMRDA, and the investigation revealed no evidence of disparate treatment in the application of the bylaw. Even if incumbent officers did attempt to persuade lodges to send incumbent officers rather than lodge members as delegates to the convention that would not have been inconsistent with the union's constitution or bylaws, and it would not have violated the LMRDA. Furthermore, article II section 1(b)(1) of the CRSF bylaws provides for reimbursement of delegates to the CRSF convention. Accordingly, the convention call letter stated that delegates would be reimbursed for their actual reasonable expenses from the System Federation Convention/Education Fund. There was no violation.

You also alleged that delegates to the CRSF convention were not elected by secret ballot from their locals. The election of delegates must conform to the LMRDA where, as here, delegates are to nominate or elect officers of an intermediate body. 29 U.S.C. §§ 481(a), (d). In such cases, delegates must be elected by secret ballot among the members in good standing of the labor organization they represent. 29 C.F.R. § 452.22.

The investigation confirmed that some lodges did not hold secret ballot elections for delegates. In the vast majority of these cases, the lodges held no delegate elections because the delegate positions were uncontested. In certain lodges, however, the investigation revealed evidence that members may not have been provided privacy while voting for delegates, and therefore ballot secrecy may have been compromised in violation of the LMRDA.

Section 402(c) of the LMRDA provides that an election may be overturned only where a violation of the law may have affected the outcome of an election. The total voting strength of all lodges at the convention was 1710. The investigation established that lodges in which the delegate positions had been uncontested accounted for at least 1217 of the 1710 votes cast at the convention; lodges that had properly conducted secret ballot elections for their delegate positions accounted for a minimum of 153 of the 1710 votes cast at the convention. Therefore, the maximum number of delegate votes that may have been cast by delegates who were not elected by secret ballot was 340 (1710 - 1217 - 153). The smallest margin of victory was 349, in the race for one of the assistant

general chairman positions. Thus, any violation could not have affected the outcome of the election.

For the reasons set forth above, the Department of Labor concludes that there was no violation of the LMRDA that may have affected the outcome of the election. Accordingly, I have closed the file on this matter.

Sincerely,



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Chief, Division of Enforcement

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