



November 1, 2018



Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed with the Department of Labor on July 3, 2017, alleging that violations of the election provisions of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U.S.C. §481, as made applicable to the elections of federal sector unions by 29 C.F.R. §458.29 and the Civil Service Reform Act of 1978, 5 U.S.C. §7120, occurred in connection with the officer election held on March 9, 2017, and the runoff election held on April 14, 2017, by Local 2798 (Local), American Federation of Government Employees (AFGE) after a trusteeship was lifted.

The Department of Labor (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. Following is an explanation of this conclusion.

You alleged that members were not allowed to vote on changes to Local 2798's Constitution and Bylaws that affected how the elections would be conducted; increased the number of officer positions from four to seven; and changed the type of election from a manual ballot to a mail ballot election. Trustee [REDACTED] stated that she changed the Local 2798's Bylaws without membership approval because a membership vote is not required when a local is in trusteeship. However, Article IX, Section 5(b)(3) of the AFGE Constitution states: "When an affiliate in the Federation is under trusteeship, the trustee will ensure that the membership of the affiliate will be involved or participate by ... providing the membership a voice in setting policy" Article XI, Section 3 of the AFGE standard local constitution further states: "Bylaws shall be adopted and amended only after a one-month notice to the local's membership and by two-thirds vote of the members, either present at a membership meeting and voting, with provision for absentee vote; or by mail ballot." Trustee [REDACTED] did not comply with the above referenced requirements of the AFGE National Constitution.

The new Local 2798 Bylaws increased the number of officer positions from four to seven and deleted specific language requiring manual ballot elections to be held. Trustee [REDACTED] acknowledged that the AFGE National Office recommended that additional officer positions such as Fair Practice Coordinator be included in the amended bylaws. She further acknowledged that she used the standard language found in the AFGE National Constitution to change the method of voting from manual to a mail ballot election.

The Department's investigation established that the January 18, 2017 combined nomination and election notice was mailed to all members and listed the seven positions available for nomination as outlined in the new Local 2798 Bylaws. The positions were: President, Executive Vice President, Treasurer, Secretary, Chief Steward, Local Fair Practice Coordinator, and Local Women's Coordinator. Nominations were made by mail during the period from January 18 to February 3, 2017. To the extent that Trustee Hall's decision to change the election to a mail ballot election and increase the number of officer positions constituted a violation of the LMRDA, there was no effect on the outcome of the election because all Local 2798 members had sufficient notice to nominate members for all of the positions and had an opportunity to vote in the election.

You alleged that the membership address list contained inaccurate addresses and that some members did not receive ballots for the election. You specifically identified [REDACTED] as [REDACTED] as members who did not receive ballots for the initial election. Section 401(e) of the LMRDA provides that members in good standing shall have the right to vote. This provision implies that every eligible member must be afforded a reasonable opportunity to vote. 29 C.F.R. § 452.94. To this end, a union must make reasonable efforts to keep the address information on its membership mailing list current prior to the election.

The investigation established that [REDACTED] undertook various measures to improve the union's membership list. Specifically, at each monthly membership meeting, she asked the Local 2798 officers to remind members to update their address information with the union; she directed the local union officials to send emails to members requesting address updates and to follow up with individual members with bad addresses to obtain better addresses; and she informed members about the procedure for requesting a duplicate ballot.

The Department's investigation established that [REDACTED], President of TrueBallot, Inc. (TrueBallot), administered both the March 9, 2017 initial and the April 14, 2017 runoff elections for Local 2798. Seibel contracted with [REDACTED] to print the ballots and AccuMail to prepare a ballot package which included a ballot, a secret ballot

envelope, a return ballot envelope and an outer envelope. AccuMail mailed the ballot packages to members on February 9, 2017.

The investigation revealed that the procedure for requesting a duplicate ballot was included in the nomination/election notice mailed to members on January 18, 2017. The procedure required members to request duplicate ballots by emailing the election committee at afge-dist14@afge.org so that a duplicate ballot could be mailed to them. The procedure was also posted on bulletin boards at worksites. According to Trustee [REDACTED], if a member called her for a duplicate ballot, she told them to e-mail the election committee at afge-dist14@afge.org. Once a request was received, she or the Election Committee Chairperson, [REDACTED], requested that a duplicate ballot be sent to the member by TrueBallot.

The Department's investigation revealed that there were 700 ballots mailed in the initial election and 57 of those ballot packages were returned undeliverable. Of the 57 returned as undeliverable, seven were returned with a U.S. Postal Service sticker on the envelope that included a forwarding address. For the runoff election, there were 706 ballot packages mailed and 40 of those were returned undeliverable. Of the 40 returned as undeliverable, six were returned with a sticker on the envelope that included a forwarding address. [REDACTED] acknowledged that if a ballot package was returned undeliverable and included a forwarding address from the post office, he did not take any action to mail a duplicate ballot, and did not notify the union of the updated address information. Thus, the local did not send duplicate ballots to these members and none of them voted in the initial or runoff elections.

Of the members you named, [REDACTED] requested and were mailed a duplicate ballot. The investigation did not reveal any evidence that [REDACTED]w, or [REDACTED] requested a duplicate ballot, and none of them voted. Inasmuch as Local 2798 failed to send ballots to the members whose ballot packages were returned undeliverable with a sticker on the envelopes that included forwarding addresses, the union violated the LMRDA. However, there was no effect on the outcome of either election because the smallest margin of victory for both elections was 26 votes in the race for chief steward.

For the reasons set forth above, the Department has concluded that there was no violation of 29 C.F.R. § 458.29 that had an effect on the outcome of the election, and I have closed the file regarding this matter. You may obtain a review of this dismissal by filing a request for review with the Director within 15 days of service of this notice of dismissal. A copy of your request must be served on the District Director and the union and a statement of facts must be filed with the Director. The request for review must contain a complete statement of facts and the reasons upon which your request is based. See 29 C.F.R. § 458.59.

Sincerely,



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Chief, Division of Enforcement

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