



March 30, 2022



This Statement of Reasons is in response to your complaint filed with the Department of Labor (Department) alleging that a violation of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U.S.C. §§ 481-483, occurred in connection with the election of officers conducted by the International Brotherhood of Teamsters (IBT), Local 512, Jacksonville, Florida, on December 1, 2020.

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.

First, you alleged that Local 512 failed to take reasonable steps to update its mailing list which denied eligible members the right to vote. Section 401(e) of the LMRDA provides that every member in good standing has the right to vote for or otherwise support the candidate or candidates of their choice. 29 U.S.C. § 481(e); 29 C.F.R. § 452.94. The statutory protection of the right to vote in a mail ballot election implies, at a minimum, that a union take reasonable steps to maintain current mailing addresses for its members and to distribute election ballots to all those entitled to vote. You claimed that Local 512 failed to update its list, resulting in 242 ballots that were returned to the union as undeliverable. During the investigation, you also alleged that 128 members did not receive a duplicate ballot despite requesting one.

The Department's investigation found that Local 512 took reasonable steps to update its mailing list before and during the election. These steps included updates Local 512 made in response to new information from its members and employers, the reconciliation of undeliverable mail and ballot packages, as well as the use of a duplicate ballot request system. Local 512 hired the American Arbitration Association (AAA) to serve as its election vendor. The vendor prepared and mailed over 4,000 ballot packages to Local 512 members. Its mailing list for ballot packages was created from the TITAN system which included all active, retired, withdrawal status and self-pay members. Local 512 continuously updated the TITAN system with new addresses

whenever a member called about health insurance issues or their mail was returned undeliverable. The union did this on a daily basis and reached out to employers to help confirm new addresses.

The Department's records review confirmed that there were 252 undeliverable mail ballot packages returned to the union. When Local 512 received undeliverable ballot packages, the union attempted to contact the affected members to obtain better addresses and asked shop stewards to assist with this task.

Local 512 was able to obtain new addresses and mailed 198 replacement ballots for reconciled undeliverable packages. The Department's records review also confirmed that AAA sent 164 duplicate ballots, in addition to 24 ballots to new members, and 23 ballots to members who were not on the original mailing list. Of the 164 duplicate ballot packages, three were returned as undeliverable. The review also indicated that Local 512 made 139 address changes between September 1, 2020, and November 1, 2020, and then made 284 additional changes between November 1, 2020, and December 1, 2020, the date of the election. Based on these findings, the Department concluded that the union took reasonable steps to ensure the accuracy of its mailing list with respect to the mailing of original and duplicate ballots. As such, there was no violation of Title IV of the LMRDA.

In your second allegation before the Department, you alleged that Local 512 failed to provide adequate safeguards with respect to the handling of undeliverable ballots, with respect to maintaining records of undeliverable ballots, and with respect to a candidate's request "to observe the process of correcting member addresses for the purpose of re-mailing undeliverable ballots." Section 401(c) requires unions to provide adequate safeguards to ensure a fair election, "including the right of any candidate to have an observer at the polls and at the counting of the ballots." 29 U.S.C. § 481(c). As part of that requirement, unions must adequately safeguard ballots to prevent ballot fraud or tampering. Section 401(c) imposes on a union's conduct of its election of officers a general rule of fairness. *See* 29 C.F.R. § 452.110.

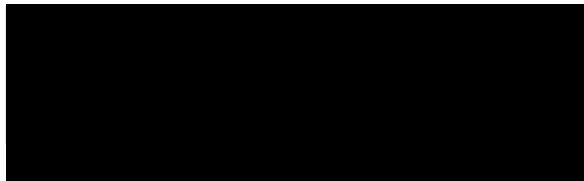
The Department's investigation found that the undeliverable ballot packages were stored in an unlocked box under the desk of an IBT Local 512 employee. While the union claimed that this office was locked when the employee was not in the office, this constituted a violation of Section 401(c) of the LMRDA because of the non-secure storage of ballots in a union office where incumbents and others could have had access to them during the workday. However, the investigation did not find any evidence that the undeliverable ballots were improperly accessed or tampered with. The investigation found that Local 512 and its election vendor, AAA, kept sufficient records of the undeliverable ballots, duplicate ballot requests, and the new ballot packages that were mailed by AAA. As such, there was no effect on the outcome of the election in

this case. Finally, you requested to observe the process of correcting member addresses but did not request to view the preparation and mailing of the ballots. The investigation revealed that, had you requested to observe the preparation and mailing of the ballots, you would have been able to do so. There was no violation.

Next, you raised allegations in your complaint to the Department that had not been timely and properly raised with the union. Section 402(a) of the LMRDA requires that a member exhaust the remedies available under the union's constitution and bylaws before filing a complaint with the Secretary of Labor. 29 U.S.C. § 481(a). You raised three allegations in your complaint to the Department concerning (a) notice of nominations, the election, and other procedures, (b) campaign mailings, and (c) union and campaign resources to support candidates' campaigns. You either failed to include these claims in your pre-election protests per IBT's mandatory pre-election protest procedures in Section 17 (G) of the local's bylaws, or you did not appeal Local 512's denial of these protests pursuant to the union's appeal procedure in article VI, section 2, of the International constitution after Local 512 denied your claims. As a result, these allegations are not properly before the Secretary and are dismissed.

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,



Chief, Division of Enforcement

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