



August 17, 2012



Dear [REDACTED]

As you were previously informed, the Department of Labor investigated the allegations in your November 23, 2010 complaint regarding the June 17, 2010 election of union officers held by Local 89 of the Laborers International Union of North America (LIUNA) and concluded that no violation of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) occurred that may have affected the outcome of the election. This Statement of Reasons summarizes the findings of the investigation and explains the conclusion that no violation of the LMRDA occurred that may have affected the outcome of Local 89's election.

You alleged that business manager candidate Valentine Macedo and other members of the BEST slate violated an election rule which prohibited the "posting or distribution of campaign literature inside the Union Hall or within 100 feet of any doorway, or activities sponsored with Union resources." You alleged that the BEST slate campaigned within 100 feet of the union hall during the April and May monthly roll calls preceding the election. Local 89 first issued this election rule during a general membership meeting on March 20, 2010; this local election rule was not part of the union's constitution or bylaws. While Section 401(e) of the LMRDA requires that elections be conducted in accordance with a union's constitution and bylaws, it does not have a similar requirement as to local election rules that are not part of the union's constitution, like the 100-foot campaign rule at issue.

However, section 401(c) of the LMRDA requires that unions provide adequate safeguards to ensure a fair election. Pursuant to this provision, unions may not engage in disparate candidate treatment. The Department investigated your allegations that the BEST slate violated the 100-foot campaign rule at Local 89's monthly roll calls on April 9<sup>th</sup> and May 7, 2010. The investigation revealed that candidates and supporters for both slates campaigned in Local 89's parking lot as members arrived to sign in at the meetings. During its investigation, the Department interviewed witnesses who gave conflicting statements regarding whether the BEST slate and/or its supporters campaigned within 100 feet of the union hall. The majority of the witnesses who stated they saw the BEST slate campaign within 100 feet of the union hall also stated they saw

the [REDACTED] slate campaigning in the same locations. The investigation did not reveal any evidence that the two slates or specific candidates were treated differently by Local 89. If the BEST slate violated the 100-foot rule, any effect was offset by [REDACTED] [REDACTED] simultaneous campaigning at the same locations. There is no evidence that the 100-foot campaign rule was ever enforced against either slate or that any slate or candidate was treated less favorably than the other slate and candidates. Therefore there was no violation of the LMRDA.

For the reasons set forth above, with respect to your complaint, the Department of Labor concluded that no violation of the LMRDA occurred that could have affected the outcome of the Local 89 election. Accordingly, the office has closed the file on this matter.

Sincerely,

Patricia Fox  
Chief, Division of Enforcement

cc: Terence M. O'Sullivan, General President  
Laborers International Union of North America  
905 16th Street, NW  
Washington, DC 20006

Valentine Macedo, Business Manager  
LIUNA Local 89  
4161 Home Avenue  
San Diego, California 92105

Christopher Wilkinson  
Associate Solicitor, Civil Rights and Labor-Management Division

**U.S. Department of Labor**

Office of Labor-Management Standards  
Division of Enforcement  
Washington, DC 20210  
(202) 693-0143 Fax: (202) 693-1343



August 17, 2012

[REDACTED]

Dear [REDACTED]

As you were previously informed, the Department of Labor investigated the allegations in your November 24, 2010 complaint regarding the June 17, 2010 election of union officers held by Local 89 of the Laborers International Union of North America (LIUNA) and concluded that no violation of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) occurred that may have affected the outcome of the election. The Department of Labor conducted an investigation of each of your allegations and of a complaint filed by Local 89 member [REDACTED]. This Statement of Reasons summarizes the findings of the investigation and explains the Department's conclusion that no violation of the LMRDA occurred that could have affected the outcome of Local 89's election.

You alleged that it was unfair that on the printed ballots quotation marks were used to designate the BEST slate, but not the [REDACTED] slate. The Department investigated this allegation, but found no evidence that any union rules or practices had been violated. The investigation revealed that the quotations marks were included in the last several ballot proofs prior to printing and that both slates had the opportunity to review the final proof before it was printed. The Department examined the printed ballots and determined that the use of quotation marks did not give the BEST slate an advantage, nor did they disadvantage the Team Moreno slate. The investigation found no evidence that the quotation marks may have affected the way any member voted. There was no violation of the LMRDA.

You also alleged that a campaign flyer sent by Val Macedo, a candidate for business manager and member of the BEST slate, contained endorsements from LIUNA officers, used union resources (photos), and violated a rule prohibiting the use of the LIUNA logo. Macedo's campaign flyers contained photographs of him shaking hands with the LIUNA President and a LIUNA Vice-President after completing a training course in Washington, DC.

The investigation revealed that the photographs were given to Macedo as a gift after he completed the training course. The photos were not union property. Additionally, the Department inspected the campaign flyer and determined that the photos and logos in the flyer did not constitute endorsements by the union, nor did they imply any endorsement by LIUNA or any of its officers. The investigation found no evidence that union funds were used to promote the candidacy of any person in violation of Section 401(g) of the LMRDA.

You also stated that one of Local 89's supplemental rules for its 2010 election prohibited the use of union logos in campaign materials. The photographs may have been taken in front of LIUNA's emblem (although the photos do not clearly display the logo). The flyer also contained a "B.E.S.T" logo that may have resembled LIUNA's logo. However, even if the Department had determined that union logos were used, Local 89's supplemental election rule was not part of the union's constitution or bylaws. Section 401(e) of the LMRDA requires only that elections be conducted in accordance with a union's constitution and bylaws. Therefore, there was no violation of the LMRDA.

For the reasons set forth above, with respect to your complaint, the Department of Labor concluded that no violation of the LMRDA occurred that may have affected the outcome of the election. Accordingly, the office has closed the file on this matter.

Sincerely,

Patricia Fox  
Chief, Division of Enforcement

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