



July 26, 2016

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your March 3, 2016 complaint filed with the United States Department of Labor alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA or Act) occurred in connection with the election of officers of the Transport Workers Union, Local 100 (Local) conducted on December 1, 2015.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded, with respect to each of your allegations, that there was no violation of the Act.

You alleged that [REDACTED], who ran for MABSTOA II First Vice Chair/Executive Board Member, was improperly permitted to run for office. You asserted that [REDACTED] did not meet the good standing requirement for officer eligibility in the Local's bylaws because he was not employed by the New York City Transit Authority at the time of nomination. Pursuant to section 401 (e) of the LMRDA, every member in good standing is eligible to be and candidate and to hold office subject to reasonable qualifications uniformly imposed. Department of Labor regulations provide that it is not unreasonable to require candidates to be employed at the trade. 29 C.F.R. § 452.41. The Department's investigation revealed that the Local's Election Committee properly determined Aiken was in good standing and eligible for candidacy because [REDACTED] was on staff with the Union. Article III, Section 1 of the TWU Constitution recognizes those who work for the International or Locals as eligible members. There was no violation of the Act.

You next alleged that the Local Chief of Staff Steve Downs sent campaign materials using the union-member email list. Section 401(g) of the LMRDA prohibits the use of union resources, including union mailing lists, to promote the candidacy of any person in an election subject to the Act. 29 C.F.R. § 452.73. Here, the investigation confirmed that the Local Information Technology Department is the sole custodian of the Local

email list, and that the list is password-protected. The investigation uncovered no evidence that Downs compiled his campaign email list from union resources rather than his personal resources, including his tenure as editor of the "Hell on Wheels" newsletter, a rank and file publication that is not supported by union resources. There was no violation of the Act.

Finally, you alleged that the Local improperly denied your request for a ballot recount the day after the tally. However, Article V, Section 6 of the TWU Local 100 Election Rules requires that protests regarding alleged improper ballot counting must be filed immediately with the Neutral Monitor, no later than the completion of the tally. The Neutral Monitor properly found your request was untimely since it was not filed the day of the tally. There was no violation of the Act.

Your complaint to the Department also raised allegations that were not protested to the union, and thus are not properly within the scope of your complaint to the Department, as well as allegations that, even if true, would not have constituted violations of Title IV of the LMRDA. These allegations were not investigated.

For the reasons set forth above, it is concluded that no violation of the Act affecting the outcome of the election occurred. Accordingly, I have closed the file on this matter.

Sincerely,

Sharon Hanley  
Chief, Division of Enforcement

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