



September 27, 2016



Dear [REDACTED]:

This Statement of Reasons is in response to your January 4, 2016 complaint filed with the United States Department of Labor (Department) alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U.S.C. §§ 481-484, occurred in connection with the election of officers of Service Employees International Union (SEIU), Local 775 (Local 775) conducted on September 3, 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 specific allegations, that no violation occurred which may have affected the outcome of the election.

To begin with, the Department has concluded that you may have failed to properly exhaust internal union remedies with respect to your allegations. Section 402 of the LMRDA requires a union member to exhaust internal union remedies prior to filing a complaint with the Secretary of Labor. Pursuant to Section 402, a member may file a complaint with the Secretary within one calendar month of receiving a final decision on an internal protest, 29 U.S.C. § 402(a)(1). A member who has invoked internal union remedies for three months without receiving a final decision may file a complaint with the Secretary within one month of the expiration of that three month period, 29 U.S.C. § 402(a)(2). *See also* 29 C.F.R. § 452.135(b).

The Department's investigation revealed that you filed a timely protest of the September 3, 2015 election with Local 775's Election Committee on September 17, 2015 and timely appealed the Committee's decision to the Local 775 Executive Board on September 29, 2015. However, Article 6.9 of Local 775's Constitution and Bylaws requires members to appeal Executive Board decisions to the International President of SEIU within 15 days of the Board's decision, and the International reports that it never received your appeal. The evidence tends to support the International's conclusion. Although you provided OLMS with a copy of your appeal letter, there is no evidence that it was actually sent to the International. Inasmuch as you did not exhaust internal union remedies with respect to these allegations, the Secretary does not have jurisdiction with respect to these allegations. *See* 29 C.F.R. § 452.135(b). Even if you did

properly exhaust internal union remedies, however, the investigation revealed that there was no violation of the LMRDA.

You allege that the incumbent Unity Slate may have received campaign contributions from Local 775 and other SEIU locals. Section 401(g) of the LMRDA provides that union funds may not be used to promote the candidacy of any individual. 29 U.S.C. § 481(g). The investigation established that the Unity Slate received \$13,178.95 in contributions, from individuals. A Department of Labor review of cancelled checks and PayPal records of Unity Slate's contributions confirmed that the slate's donations came from the accounts of members or the accounts of slates at other locals, and not from union funds. Accordingly, no violation occurred.

You allege that the Unity Slate was permitted to use SEIU 1199's robocall services free of charge, while you were required to pay for such services. Section 401(c) prohibits disparate treatment of candidates. 29 U.S.C. § 481(c). The investigation revealed that on or around July 25, 2015, you received a letter from the Local 775 Elections Committee informing you that you could use the union's robocall vendor to call union members at your own expense; however, you declined this opportunity. The investigation further revealed that the Unity Slate chose to use the union's robocall vendor, 1199 SEIU and that the Unity Slate paid \$1,311.04 to 1199 SEIU for its services. Accordingly, there was no violation of the LMRDA.

You also alleged that the ballot was designed to favor members of the Unity Slate because it permitted slate voting. The LMRDA permits slate voting, so long as voters have the option of not voting for the entire slate and voters are informed that they need not vote for the entire slate. 29 C.F.R. § 452.112. A review of the ballot used in Local 775's election shows that members were permitted to vote for the entire Unity Slate or individual members thereof. Additionally, the accompanying ballot instructions informed members that they did not need to vote for a slate. Accordingly, there was no violation of the LMRDA.

You allege that Elections Committee Chairperson [REDACTED] was not a member in good standing of Local 775 but a Local 775 employee; thus, she should not have been permitted to serve on Local 775's Elections Committee. As noted above, Section 401(e) obliges unions to conduct their elections in accordance with their constitutions and bylaws. Under Article 6.2 of Local 775's Constitution and Bylaws, only members-in-good-standing are permitted to serve on the Local's Elections Committee. However, the investigation demonstrated that [REDACTED] is a member in good standing of Local 775. Article 2.1 of Local 775's Constitution and Bylaws defines Local 775 employees as regular members of the Local. And under Article 2.4, a member is in good standing so long as she fully pays her union dues prior to the last day of each month. A review of

██████████ dues records revealed that she had been paying union dues every month and qualified as a member in good standing. As such, there was no violation.

Lastly, you allege that during the ballot tally, two envelopes were separated from the rest of the ballots and placed out of sight. According to your complaint, these envelopes may have been nominations for convention delegates, who were elected in a separate election. The investigation revealed that you were present as an observer at the ballot tally, but did not raise the issue of the two envelopes until you filed your complaint two weeks later. Local 775 Elections Chairperson ██████████ reported that several pieces of mail relating to union business, a contract ratification vote, and some junk mail were removed from the collection of ballots prior to the tally and that there were no convention delegate nominations included with the ballots. The investigation revealed no evidence to the contrary. Moreover, a review of Local 775's election records did not indicate any problem with its handling of the ballots. Therefore, there was no violation.

Your complaint included several allegations that do not allege violations of Title IV of the LMRDA and, therefore, are not addressed in this letter.

For the reasons set forth above, it is concluded that no violation of the LMRDA occurred that may have affected the outcome of the election. Accordingly, our office has closed the file on this matter.

Sincerely,

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Division of Enforcement

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