



April 25, 2017



Dear [REDACTED]

This Statement of Reasons is in response to your January 14, 2016 complaint filed with the U.S. Department of Labor (the Department) alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA or the Act) occurred in connection with the election of officers conducted by the Service Employees International Union, Local 32BJ, District 1201 (the Local), on September 17, 2015.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded that no violation occurred.

In your complaint, you made several allegations that the Local improperly used union funds for campaign purposes. Under section 401(g) of the LMRDA, local union funds cannot be used to promote the candidacy of anyone in a union officer election.

First, you alleged that on August 29, 2015, Local officers campaigned for the incumbent slate on union time at a public education forum held at the Local's union hall. Specifically, you alleged that two Local officers publicly praised the incumbent President, failed to praise you for similar work, and personally signed the invitation to the public education forum, a union-sponsored event. The LMRDA provides that union funds cannot be used to promote the candidacy of any member in an election. Use of union funds includes campaigning on union time and using union equipment, including union facilities, to campaign. However, campaigning incidental to regular union business would not be a violation of the Act. The Department in investigating this allegation interviewed several witnesses and reviewed the event invitation. The investigation revealed that the forum was a union-sponsored event held to update Local members on the school budget, layoffs and contractual bargaining. The timing of the forum was not contrived for campaign purposes but corresponded to the beginning of the school year, the state elections and the availability of state and local politicians. The investigation found that the incumbent officers were praised during the forum. However, comments were connected to the issues raised at the forum. There was no campaigning. Even if the favorable comments were to be seen as campaigning, the campaigning was incidental to legitimate union business and would not violate the

LMRDA. Further, the Department's review of the forum invitation, including the signatures, did not reveal any evidence that the invitation constituted campaign material. There was no violation of the Act.

Second, you allege that after the forum, a member supporting the incumbent slate used union resources when after the forum, while inside the union hall, the member invited 5 people to a campaign event and distributed incumbent campaign literature. The Department interviewed several witnesses concerning this allegation. The investigation confirmed that the individual handing out literature did so in the parking lot, not the union hall. Because the Department's investigation established that the supporter was handing out flyers after, not during, the union-sponsored event, the activity did not run afoul of the LMRDA or any union rule.

Third, you alleged that an opponent of your candidacy, [REDACTED], was passing out a defamatory letter about you during a union-sponsored event. The Department's investigation found that [REDACTED] distributed copies of a 2001 letter concerning the Local's finding of misconduct against you. [REDACTED] was asked to stop distributing the letter and did so. Neither the LMRDA nor the union may censor the content of campaign literature. Moreover, the investigation found that [REDACTED] was distributing the letter outside in the parking lot, not inside at the event, and that any candidate could have distributed literature in the same manner. There was no violation of the Act.

You also made two allegations that you were treated unfairly. First, you alleged that, on June 25, 2015, Representatives [REDACTED], along with Executive Board Member Theodore Daniels, gained an unfair advantage by collecting nominating petition signatures while conducting union business. In investigating your allegation, the Department interviewed several witnesses and reviewed the signatures collected on June 25, 2015, and the Local's leave records. The Local's leave records indicate that [REDACTED] were not on union time but on leave on June 25, 2015. The records indicate that [REDACTED] did obtain signatures in the lobby of the Stoddard Fleisher middle school and outside the school, but that no other members were denied access to the lobby to obtain signatures. Multiple witnesses confirmed that no members collected signatures inside the school's auditorium. Finally, Daniels did not collect or submit any signatures dated June 25, 2015. The Department's investigation revealed that the union officers were either on leave or properly collected signatures under the Local's election rules. You were not denied the opportunity to obtain signatures. Thus, no violation occurred.

In your second allegation concerning unfair treatment, you allege that Local field representatives and a Board Member obtained nominating petition signatures from members inside an employer facility on June 24, 2015, while conducting union business

concerning the bus driver bids at the Passyunk Garage in Philadelphia. As stated above, the Local allows members to collect signatures in parking lots, break rooms, and lobby areas before and after shifts, so long as the bidding process is not disturbed. The Department interviewed witnesses and reviewed the Local's leave records and pay-stubs to determine that such signatures were validly obtained pursuant to the Local's election rules. The manner of collecting signatures did not violate the LMRDA. You were not denied the similar opportunity to obtain signatures. There was no violation of the Act.

Finally, you raised an additional allegation that was determined not to be within the scope of the Department's authority. You alleged that the Local did not provide an accurate figure of the opposing candidates' validated nominating petition signatures on June 23, 2015. Although you were aware of this issue prior to the union's hearing on your election protest, you failed to raise this issue internally with the union. As such, the Department will not address this allegation.

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

Sincerely,

[REDACTED]

[REDACTED]

Chief, Division of Enforcement
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