



August 16, 2017

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to the complaint that you filed with the U.S. Department of Labor on March 9, 2017, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the regularly scheduled election of officers conducted by the National Association of Letter Carriers (NALC) Branch 2550 on November 7, 2016.

The Department of Labor conducted an investigation of your complaint. As a result of the investigation, the Department has concluded that, with respect to the specific allegations, no violation of the LMRDA occurred that may have affected the outcome of the election.

You alleged that the local permitted ineligible members to vote in its November 7, 2016 election and that the local failed to follow its constitution and bylaws when your request to review Form 1189s to check the eligibility of every retired member deemed eligible to vote was denied. The Department of Labor investigation revealed that only those eligible to vote participated in the election. Consequently, the union's failure to allow you to review the Form 1189s would not have resulted in a violation affecting the outcome of the election. In any event, the Department of Labor investigation did not reveal that a violation of the Act occurred with respect to your request to view the Form 1189s. The investigation revealed that the union did not allow you to view the Form 1189s on the basis that the forms contained sensitive personal information. NALC governing documents do not contain a provision allowing candidates to review Form 1189s. In states where members are subject to a collective bargaining agreement that requires union membership or agency fee payer status as a condition of employment, the LMRDA gives candidates the right to inspect the membership list once within 30 days prior to the election, but as Florida is a right-to-work state, this provision of the LMRDA is not applicable here. Moreover, you were allowed to view the membership roster. There was no violation of the LMRDA.

You also alleged that ballots not containing the voter's signature on the return ballot envelope should not have been included in the tally. The Department's regulation at 29


C.F.R. 452.97(c) provides that in a mail ballot election it would be unreasonable for a union to void an otherwise valid ballot merely because a member did not sign his name if the union does not use the signatures to determine voter eligibility. Section 14.3 of the NALC Regulations Governing Branch Election Procedures provides that the mail voting instructions must be clear and instruct the voter to follow a set of steps, including as provided in Section 14.3(e), “sign the reply envelope in the upper left-hand corner – otherwise the ballot will be voided – unless the branch uses an alternative identifier on the reply envelope to verify the eligibility of the voter.” The investigation found that the local counted 16 ballots that were returned without a signature on the outer reply envelope. The investigation also revealed, however, that each outer envelope had been affixed with an address label listing the voter’s name and address. The local was thus able to verify the eligibility of the voters using that address label. Although the ballot instructions stated that a signature must be in the upper left-hand corner of the envelope and that failure to comply would invalidate the ballot, the ballot instructions also stated that the address label on the back of the business reply envelope would be used to check voter eligibility.

During the investigation, the Election Chair explained that the local counted the 16 ballots without signatures on the outer reply envelopes because the local commonly used the address label to verify voter eligibility even when the outer envelope was signed. Additionally, the investigation found that the local relied on a NALC Presidential Ruling advising that DOL’s regulations provided that ballots returned in an unsigned envelope in a mail ballot election could be counted if there was sufficient information to verify the voter’s eligibility. The investigation found that the local’s election rules were applied in a consistent and uniform manner with respect to this issue, in accordance with the union’s governing documents. There was no violation of the LMRDA.

You alleged that on November 7, 2016, the Election Chair declared you the winner of the race for president, but that the other candidate was announced as the winner of that race on the following day. The investigation revealed that the official results from the November 7, 2016 election were announced to the membership at the November 8, 2016 membership meeting and were also posted in the branch newspaper, both appropriate means of reporting the election results under Section 18.1 of the NALC Regulations. While you may have been told where the count stood on November 7, before the challenged ballots had been counted, the official results were not announced to the membership until the next day. Additionally, as discussed above, the challenged ballots were properly counted. Accordingly, there was no violation of the LMRDA.

For the reasons stated herein, we have concluded that no violation of the LMRDA occurred which may have affected the outcome of the election. Accordingly, the office has closed the file on this matter.

Sincerely,



Sharon Hanley
Chief, Division of Enforcement

cc: Fredric V. Rolando, National President
National Association of Letter Carriers
100 Indiana Avenue, NW
Washington, D.C. 20001-2144

Jerrel Kinloch, President
NALC Branch 2550
3062 NW 60th Avenue
Sunrise, FL 33313-1203

Beverly Dankowitz
Associate Solicitor for Civil Rights and Labor-Management