



December 13, 2017

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your September 18, 2017 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), occurred in connection with the election of local officers of the American Postal Workers Union (APWU) Local 89 conducted on June 9, 2017.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded that no violation occurred which may have affected the outcome of the election.

Initially, you alleged that APWU Local 89 failed to comply with its constitution and bylaws when members of the Election Committee carried returned ballots into the American Arbitration Association (AAA) to be counted. Section 401(e) of the LMRDA requires a union to conduct its election of officers in accordance with the constitution and bylaws of the organization insofar as they are not inconsistent with the provisions of Title IV of the LMRDA. Article XI, Section 5 of the Local 89 Constitution states “[t]he election shall be conducted under the supervision of a recognized impartial balloting association, which shall be selected by the President with the prior approval of the Local Union’s Executive Board....”

The Department investigated your allegation and found no evidence that Election Committee members carried the returned ballots into AAA on the day of the tally. Rather, the investigation determined that no one outside of AAA representatives had possession of the ballots during any phase of the election. There was no violation.

You next alleged that you were denied the right to have an observer present when the returned ballots were picked up from the post office and transported to AAA for tallying. Section 401(c) of the LMRDA provides that candidates have a right to have an observer at the polls and the counting of the ballots. This right encompasses every

phase and level of the counting and tallying process, including the ballots' receipt by the counting agency when elections are conducted by mail. 29 C.F.R. § 452.107. However, a union's obligation is to permit observation when it is requested. The investigation determined you did not request to observe the receipt of the ballots by AAA. Thus, there was no denial of your rights. There was no violation.

You further alleged that there were a large number of returned ballots that were not counted in the election because voter return addresses had been removed from the envelopes. Section 401(e) of the LMRDA provides that every member in good standing has the right to vote for or otherwise support the candidate or candidates of her choice. Further, Article XI, Section 18 of the Local 89 Constitution requires that "[m]embers' name, address and the unique identification number should be printed, typed or legibly written on the return envelope to be valid."

The Department investigated your allegation and found no evidence that there had been tampering with the returned ballots. The investigation determined that only one person, an employee of AAA, had a key to the post office box that contained the returned ballots. In addition, a review of the election records revealed that only 12 of 723 (1.66%) returned ballots were voided during tallying.

The Department's investigation further revealed that these 12 ballots were not counted because they did not have voter information on the envelopes and, without this information, the ballots could not be verified as a valid vote from a member in good standing. There was no evidence to suggest that this information was on the envelopes when they were received in the post office box and had been removed as a result of tampering. Furthermore, even if there was a violation of the LMRDA with respect to these ballots, these 12 ballots could not have affected the outcome of the election since the closest margin of victory in the election was 51 votes. Thus, there was no violation of the Act that affected the outcome of the election.

You also alleged that the Trustee race was not properly counted. This allegation was not presented to the union in your internal protest. Therefore, under section 402(a) of the LMRDA, this allegation is not properly before the Department and was not investigated. Finally, your complaint included information that you were advised by President Nick Casselli that you would only receive 50 votes in the election. You acknowledged during an interview with OLMS that this was just something you wanted to reference in your complaint but not an allegation. Even if an allegation and even if true, this would not constitute a violation of the LMRDA.

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, this office has closed the file on this matter.

Sincerely,

Sharon Hanley  
Chief, Division of Enforcement

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