



December 21, 2017



Dear [REDACTED]

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on May 2, 2017, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA), occurred in connection with the election of union officers conducted by Local 1-S, Retail, Wholesale, and Department Store Union, United Food and Commercial Workers International Union, on January 31, 2017.

The Department of Labor (Department) conducted an investigation of your allegations. As a result of the investigation, the Department has concluded, with respect to the specific allegations, that there was no violation of the Act that may have affected the outcome of the election.

First, you alleged that a Local 1-S shop steward threatened to get you suspended and terminated from employment if you ran for office. Section 401(e) of the LMRDA provides that members have the right to vote for and support the candidates of their choice without being subject to penalty, discipline, improper interference, or reprisal of any kind. 29 C.F.R. § 452.105. The investigation showed that you were suspended and eventually terminated from employment after your employer found that you violated the employer's policy against workplace violence. Several witnesses corroborated that finding during the employer's investigation of the propriety of your conduct. The Department's investigation did not disclose any evidence that you were suspended or terminated from employment for the purpose of interfering with or preventing the exercise of any rights secured under Title IV of the LMRDA. The LMRDA was not violated.

Next, you alleged that you were prevented from collecting signatures for your nominations petition because you were not permitted to enter or stand outside your workplace during your suspension from employment. Section 401(e) of the LMRDA provides that a reasonable opportunity must be afforded for the nomination of candidates. 29 C.F.R. § 452.55. The investigation disclosed that, during the challenged election, nominations were conducted by petition. The investigation showed that while

you were suspended from employment you were prohibited from entering your workplace to collect signatures for your petition. In addition, the employer's no solicitation/distribution policy prevented you from soliciting members' support while they were on the sales floor. The investigation disclosed, however, that you were not prohibited from standing on the public sidewalk outside the workplace and collecting signatures or from collecting signatures outside the employer's other locations where Local 1-S members worked. Further, your supporters were not prevented from collecting signatures on your behalf at their workplaces. The LMRDA was not violated.

You further alleged that, when you picked up your slate's nominations petition from the election committee chairman (EC), he stated that each member of your slate was required to pick up his or her own separate nomination petition. You alleged that this requirement was not applied to other slates. Section 401(c) of the LMRDA contains a general mandate requiring a union to provide adequate safeguards to insure a fair election. Thus, a union's conduct of its election of officers must be circumscribed by a general rule of fairness. 29 C.F.R. § 452.110(a). The investigation did not substantiate that the EC told you that each of your slate members was required to pick up his or her own separate nominations petition. The investigation instead disclosed that, when you met with the EC to obtain a nomination petition, you told him that you might form a slate in the future but that you had no slate at that time. The EC therefore instructed you to contact him once your slate was assembled and stated that he would add the names of your slate members to your petition at that time. However, you never contacted the EC, and no such slate was ever assembled. In fact, the investigation established that several members who you stated intended to run on your slate never informed you that they had any such intention. The LMRDA was not violated.

Finally, you raised several concerns regarding union representational and unfair labor practices issues. However, such issues are not governed by the LMRDA. Congress has delegated the authority to resolve such disputes to the National Labor Relations Board (NLRB), a federal agency independent of and separate from the Department. The Department lacks the authority to consider these matters, and they are dismissed.

For the reasons set forth above, the Department has concluded that there was no violation of Title IV of the LMRDA that may have affected the outcome of the election, and I have closed the file in this matter.

Sincerely,

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Chief, Division of Enforcement

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