

**U.S. Department of Labor**

Office of Labor-Management Standards  
Division of Enforcement  
Washington, DC 20210  
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December 8, 2017

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your complaint, received by the United States Department of Labor (Department) on June 26, 2017. The complaint alleged that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959, (LMRDA), occurred in connection with the election of officers conducted by Local 933 of the United Automobile Workers on May 10, 2016.

The 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 LMRDA that may have affected the outcome of the election.

You alleged that the candidate for Financial Secretary displayed campaign posters on most of the windows, walls, and door entrances to the local union hall. Section 401(c) of the LMRDA requires unions to provide adequate safeguards to insure a fair election. The adequate safeguards provision encompasses a prohibition against disparate candidate treatment. *See* 29 C.F.R. § 452.110. The Department's investigation disclosed that most, if not all, candidates distributed and placed literature in multiple areas of the union hall during the retiree luncheon that occurred on the day of the vote. This included literature on the doors and windows of the union hall, outside the hall's entrance, and in the luncheon. No candidate was prohibited from campaigning in this matter. There was no disparate treatment of candidates. There was no violation of the LMRDA.

In addition, you alleged that campaign postings were on an entrance that was within ten feet of the polling site. Additionally, Department of Labor Regulations at 29 C.F.R. § 452.111 prohibits campaigning within a polling place and allows unions to forbid campaigning within a specified distance of a polling place. By letter dated April 20, 2016, the Election Committee sent a "Candidate/Challenger Information and Guidelines" letter, prohibiting campaigning within fifty feet, or within the designated area, of a polling site. Chapter 12 of the UAW Guide for Local Election Committees

further provides that no campaigning may occur in the polling area, and that polls should be checked periodically to ensure that no campaign materials have been left in the voting area. Despite the fifty feet distance requirement, all candidates were permitted to distribute literature at all doors to the hall and place literature at the tables during the luncheon. Further, this campaigning activity during the luncheon was consistent with the union's past practice. To the extent that Local 933 failed to enforce its own election rule containing the fifty feet distance requirement, the union's disregard for its distance rule did not constitute a violation of the LMRDA. Finally, there was no evidence that campaigning occurred within the polling areas at any site. Accordingly, there was no violation of the Act.

You next alleged that the candidates for bargaining chairman were left off the ballots in the Speedway union election for part of the voting period. Section 401(e) of the Act requires that every member in good standing must be given a reasonable opportunity to vote. Section 401(c) further requires that unions provide adequate safeguards to insure a fair election. The Department's investigation revealed that, on the day of the election, the entire Allison Transmission Inc. (ATI) bargaining chairman race was inadvertently omitted from the Zone 3, District 5 ballot until approximately 11:00 a.m. Once this error was discovered, MicroVote, the balloting company responsible for the voting machines, corrected the issue. While the deficiency was being corrected, Local 933 gave voters provisional paper ballots for the ATI race. The Department's investigation found that prior to the correction, 77 members from Zone 3 District 5 voted on the original 12 machines lacking the ATI bargaining chairman race. 57 of these members voted provisional ballots, which were counted. Accordingly, the Department has determined that 20 voters did not have the opportunity to vote for the ATI bargaining committee chairman due to the ballot error. This constituted a violation of the Act. However, Section 402(c)(2) of the LMRDA provides that an election will not be overturned unless a violation may have affected the outcome of the election. Here, the maximum effect of the violation was 20 votes, which could not have affected the election, which was won by a vote margin of 538. Therefore, there was no violation of the LMRDA that may have affected the outcome of the election.

You further alleged that candidates and other members were denied a breakdown report of the voting totals by polling site, which created an unfair advantage for candidates involved in the runoff election. Section 401(e) of the LMRDA requires that in any secret ballot election, the votes be counted and published. See 29 C.F.R. § 452.108. Section 401(c) of the LMRDA requires unions to provide adequate safeguards to insure a fair election, which has been interpreted to mean that the conduct of an election is circumscribed by a general rule of fairness. 29 C.F.R. § 452.110. The Department's investigation confirmed that Local 933 published the grand totals of the election. However, nothing in the Act or the union's governing documents required that a breakdown of voting totals by polling site be disclosed, and no one, including election committee members, union officers, employees, or candidates, was given

results broken down by polling site. There was no unfairness in the process and no violation of the LMRDA.

You also alleged that incumbent candidates were given the advantage of campaigning adjacent to work areas of the voters, in addition to cafeterias, break malls, aisles, and employee entrances, while other candidates were denied this privilege. The Section 401(c) requirement that unions provide adequate safeguards to insure a fair election encompasses a prohibition against disparate candidate treatment. *See* 29 C.F.R. § 452.110. During the investigation, the Department learned that employers determined the campaign rules for employees and nonemployees. Employers restricted campaign activity for employees to nonworking hours and to cafeterias, break malls, aisles, and employee entrances. For nonemployees, campaign activity was restricted to the exterior of employee entrances. The investigation did not substantiate your allegation that any of the candidates were treated differently with respect to campaigning. All candidates were permitted to campaign at employer gates. Candidates or their supporters, who were employees of the facility, were permitted to leave campaign literature inside the permissible worksite areas. There was no violation of the Act.

You next alleged that the membership had no input into the process of setting up the May 10, 2016 general election process, such as the election service that was employed by the local. Additionally, you alleged that the election was posted and scheduled in the union's newsletter without any input or approval from the membership. Section 401(e) of the LMRDA requires that officer elections must be conducted in accordance with the union's constitution and bylaws insofar as they are not inconsistent with the Act. Article 38, Section 10(d) of the UAW Constitution provides that the dates of the election be established by the membership body. The Department's investigation found that the local published the general election and runoff dates in the union's quarterly newsletter in February. The March 2016 membership meeting minutes reflected the executive board's recommendation of the election dates and the retention of MicroVote to conduct the election. A review of the records shows that the motion was made, seconded, and passed. Despite the announcement of the proposed date for the election prior to the March meeting, Local 933 met its obligation to receive membership approval as required by the UAW Constitution. There was no violation of the LMRDA.

You further alleged that the chairman of the election committee took the tabulated count from the election service and went directly behind closed doors with candidates before the information was confirmed or verified by the other members of the election committee. Article 38, Section 10(c) of the UAW Constitution provides that all elections should be held under the supervision of a democratically elected Election Committee. The Department's investigation confirmed that the election chair took MicroVote's printout of the totals directly to the administrative assistant's office to be transferred to a spreadsheet. However, the investigation did not reveal any evidence of voter fraud or tampering with the election results. Furthermore, the investigation found that

observers, including you, were present during the tally. There was no violation of the Act.

You also made several other allegations that, even if true, would not constitute violations of Title IV of the LMRDA and were therefore not investigated.

For the reasons set forth above, it is concluded that there was no violation of the LMRDA that 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

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