



January 27, 2017

[REDACTED]

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is provided in response to the complaint you filed with the Department of Labor on March 25, 2015, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the December 3, 2014 election of union officers conducted by the Amalgamated Transit Union (ATU) Local 192.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department concluded that there were two violations that did affect the outcome of the election. To address these violations, the union agreed to a remedial election supervised by the Department on November 24, 2015. As to the remaining allegations in your March 2015 complaint, the Department has concluded that no violation occurred that may have affected the outcome of the election. The following is an explanation of this conclusion.

You alleged that three individuals were wrongly disqualified from running in the election. Section 401(e) of the LMRDA provides that every member in good standing shall be eligible to be a candidate for office, subject to "reasonable qualifications uniformly imposed." Section 14.2 of ATU International's constitution provides that a member must be in continuous good standing in the two years prior to the nominations meeting in order to be eligible to be a candidate for office. Continuous good standing requirements are considered to be a reasonable qualification for office. 29 C.F.R. § 452.37(b). The investigation revealed that the dues records for these members documented that each was suspended for lack of payment of dues during the two-year period prior to the nominations meeting. Therefore they were properly disqualified from running. There was no violation.

Next, you alleged that candidates were improperly allowed to run for office even though their primary nominator or secondary nominator was not eligible to nominate candidates for office. Section 401(e) of the LMRDA provides that in any election subject to Title IV, a reasonable opportunity shall be given for the nomination of candidates. A union may employ any method for nomination of candidates that will provide a reasonable opportunity to make nominations. 29 C.F.R. § 452.57(a). The investigation revealed that every nominator, both primary and secondary, was eligible to nominate candidates for office. There was no violation.

You also alleged that the nomination notice was not posted at all worksites and did not contain information about a requirement to have a second nominator. The investigation revealed that the union posted a nominations notice at all of the worksites. In addition, no nominee was disqualified for not having a second nominator. You also alleged one member wanted to run for office but did not receive notice of the nomination meetings. This member stated he was aware of the nominations meetings but had no desire to run for office. There was no violation.

You also alleged that a candidate was allowed to use the union's machine to affix his mailing address labels while you had to manually apply your labels. Section 401(g) of the LMRDA prohibits the use of union resources to promote the candidacy of any person in a union election. The investigation revealed that there was no union machine that could adhere mailing address labels. The election committee used the union's ink stamp for return address on all campaign materials. There was no violation.

You alleged that the Recording Secretary may have used the union copy machine to reproduce campaign materials and may have campaigned on union time when distributing materials at union meetings. The Recording Secretary denied using union resources during the election; you provided no evidence to support this allegation; and the investigation did not reveal any evidence of wrongdoing. There was no violation.

You alleged that candidates used the ATU logo after being told not to do so. The investigation revealed that the union took steps to address the use of the ATU logo. The president and election committee chair notified candidates to cease using the logo and the candidates followed this directive. Any violation was remedied.

You alleged that the union did not properly reconcile the ballots, which may have led to ballot stuffing. Section 401(c) of the LMRDA requires a union to provide adequate safeguards to ensure a fair election. The investigation did not reveal any evidence to substantiate this allegation. A reconciliation conducted by OLMS revealed a minor discrepancy and no evidence of ballot stuffing. There was no violation.

You alleged that members at the Vallejo polling site may not have been notified of a change in the polling site location. Section 401(e) of the LMRDA requires notice of a union election to be mailed to each member no less than fifteen days prior to the election. The investigation revealed that the polling site was changed, but a revised election notice was mailed to all Vallejo workers more than 15 days before the election. In addition, a notice was also placed in each worker's mail box and posted throughout the work site. There was no violation.

Finally, you alleged that supporters of certain incumbent candidates intimidated and bullied voters at the workplace and online during the elections. The Department's investigation did not reveal any evidence to substantiate this allegation. The investigation revealed that the union did not receive any reports of bullying during the election. There was no evidence that any candidate directed supporters to bully or intimidate voters. There was no violation.

For the reasons set forth above, the Department has concluded that with respect to the allegations outlined above, there was no violation of Title IV of the LMRDA that may have affected the outcome the outcome of the election. Therefore, I am closing the file regarding this matter.

Sincerely,



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Chief, Division of Enforcement

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