



May 11, 2017

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your January 12, 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 October 14, 2016 election of officers of the American Postal Workers Union (APWU) Local 190.

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 no violation occurred which may have affected the outcome of the election.

First, you alleged that the Local Election Committee (LEC) withheld from you information regarding the number of union members in each craft, but provided the information to candidates [REDACTED], in violation of Section 401(c) of the LMRDA. Section 401(c) of the LMRDA requires unions to comply with all reasonable requests of any candidate to distribute campaign literature and prohibits unions from discriminating in favor of or against any candidate with respect to the use of lists of members. In response to your initial request for the numbers of members by craft, the LEC, on September 2, 2016, sent you a letter explaining candidates' rights to inspect the membership list and specifying that all candidates requesting to conduct campaign mailings and/or inspect the membership list were to contact Anne Manimaletu, the Local's Secretary-Treasurer.

During the Department's investigation, you stated you contacted Ms. Manimaletu between September 19, 2016 and September 23, 2016, to inquire about campaign mailings, at which point Ms. Manimaletu directed you to fax a written request because the union was keeping a written record of campaign mailing requests. The investigation found no evidence that you ever faxed a request or requested from Ms. Manimaletu the specific number of members in each craft. Additionally, you were

unable to remember if or when you submitted a written request. The Department's investigation revealed that [REDACTED] received information regarding the number of union members in each craft because they each submitted a written request to Ms. Manimalethu to conduct a targeted campaign mailing. As such, you had the same right as [REDACTED] to be informed of the number of members in each craft, but you never submitted a written request to Ms. Manimalethu to inspect the membership list or conduct a campaign mailing; therefore, no violation of the LMRDA occurred.

Second, you alleged that the union failed to properly count ballots, in violation of Section 401(e), by including in the ballot tally ballots that had arrived to the post office after the initial ballot tally had begun on October 14, 2016. Section 401(e) provides, in relevant part, that every member of a union in good standing has the right to vote in local elections. The Notice of Nomination and Election provided that ballots must be received by the Honest Ballot Association (HBA) no later than Friday, October 14, 2016, in order to be counted. The investigation revealed that fifty-three ballots were at the post office on October 14, 2016, but had not been put into the post office box yet when the ballots were picked up before the tally. The processing of those fifty-three ballots had been delayed by a billing problem with the HBA account. Once resolved, before the tally was complete, a representative from HBA and [REDACTED], a member of the LEC, went to the post office to pick up the fifty-three additional mail ballot envelopes. During the tally, HBA counted the fifty-three additional ballots, one of which was void, separately from the remaining ballots. HBA concluded that the votes on these fifty-two ballots did not alter the results of the election.

The Department's investigation revealed that there was no specific cut-off time for tallying the ballots; the only instruction was that HBA had to receive the ballots by October 14, 2016, and HBA was careful to collect only those ballots that would have been delivered to HBA that day but for the billing error. Indeed, the ballots were retrieved from the post office and counted on October 14, 2016. No violation occurred.

Third, you alleged that Candidate [REDACTED] was told she was ineligible to run after being nominated for Chief Steward, but was nonetheless included on the ballot and was told that she was, in fact, eligible to run. Section 3(n) of the LMRDA defines "officer" as,

"any constitutional officer, any person authorized to perform the functions of president, vice president, secretary, treasurer, or other executive functions of a labor organization, and any member of its executive board or similar governing body."

Furthermore, Article 6, Section 2 of the APWU Local 190's Constitution and Bylaws provides that the position of Chief Steward is not part of the Executive Board, but rather

is appointed and certified by the President. Based on this, the Department concluded that the position of Chief Steward is not an officer position covered under the LMRDA; thus, this allegation cannot constitute a violation of the LMRDA.

Lastly, you alleged that the union failed to provide you the right to inspect the membership list once within thirty days prior to the election, as required by Section 401(c) of the LMRDA. The September 2, 2016 letter from the LEC described candidates' rights to inspect the membership list and explained the process for doing so. During her interview with the Department, Ms. Manimaletu explained that no candidate requested to inspect the membership list; additionally, during your interview, you could not remember ever requesting to inspect the membership list. Because the investigation did not uncover any evidence that you were denied a request to inspect the membership list, there was no violation of the LMRDA.

Lastly, you alleged that the ballot format was improper in that the position of appointed incumbent candidates on the ballot should not be the same as the position of elected incumbent candidates. This allegation was not raised in either of your grievances with the National Election Appeals Committee; thus, this allegation was not within the scope of the Department's investigation.

For the reasons set forth above, it is concluded that no violation of the LMRDA occurred. Accordingly, the office has closed the file on this matter.

Sincerely,

Sharon Hanley  
Chief, Division of Enforcement

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