



May 11, 2017

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on February 16, 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 673, International Brotherhood of Teamsters, on November 9, 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 union and employer funds were used to promote the candidacies of the incumbent slate when the union purchased and distributed to members calendar books containing the names and titles of the union's executive board members and business agents. Some of whom were candidates in the upcoming election. Section 401(g) of the LMRDA prohibits the use of union and employer funds to promote the candidacy of any person in an election of union officers. 29 C.F.R. §§ 452.73, 78. The investigation disclosed that, on September 14, 2016, the union's executive board approved the purchase of 2017 calendar books. On October 27-28, 2016, union officials distributed the books to 68 members either by hand or by placing the books in members' work mail boxes. After you complained about the books being distributed so close to the day of the election, no calendar books were distributed after those dates.

In determining whether a union publication promotes a person's candidacy, courts evaluate the communication's timing, tone and content. With respect to timing, the 2017 calendar books were distributed to members about two weeks before the

November 9, 2016 election. The books were distributed in close proximity to the election. However, if the calendars can be said to have a tone, it was not promotional of the incumbent officers or critical of the opposition candidates. The content consisted of the names of the current officers, the union logo, and the months of the calendar year. This information did not encourage or endorse the reelection of the incumbent candidates. Therefore, the books did not constitute campaign material. Thus, the union's use of members' work mail boxes to distribute the books did not involve the unlawful use of a union or employer's resource, in violation of section 401(g). In any event, only 30 of the 68 members who received the books voted in the election. The smallest vote margin was 129 votes; therefore, the distribution of the calendar books could not have affected the election, even if it could be found to be a violation. The LMRDA was not violated.

You next alleged that an employer permitted a business agent to speak to members during the company's safety meeting. The investigation showed that a business agent spoke to members for about one minute during a company's safety meeting. During the speech, he did not reference the incumbent officers, mention their reelection to office, or solicit members' votes. There was no campaigning using employer or union resources. In any event, only 7 of the 32 members who attended the safety meeting voted in the election. The smallest vote margin was 129 votes, so any campaigning could not have affected the outcome of the election. The LMRDA was not violated.

Finally, you alleged that management at an employer facility removed your slate's campaign signs that were located near a public roadway at that facility. The prohibition against the use of employer money includes any costs incurred by an employer, or anything of value contributed by an employer to support the candidacy of any individual in an election. 29 C.F.R. § 452.78. The investigation disclosed that the employer has a policy prohibiting campaigning on company property. Candidates also were prohibited from campaigning on or near Kirk Road, a portion of which is maintained by the employer, because the road is used primarily by large trucks and semi-trucks to haul various materials and is considered to be extremely dangerous.

Despite the prohibition against campaigning on or near Kirk Road, your supporters placed campaign signs in that area. As a result, management removed your slate's campaign signs that were located on or near Kirk Road. The incumbent slate did not place campaign signs in or near that restricted area. The employer's rules concerning campaigning, and their enforcement on Kirk Road, did not constitute employer resources used in support of a candidate. The LMRDA was not violated.

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,

Sharon Hanley  
Chief, Division of Enforcement

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