



August 1, 2019

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on April 18, 2019, 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 Division 683, Brotherhood of Locomotive Engineers and Trainmen (BLET), on December 6, 2018.

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 first alleged that there were irregularities in the election process caused by the untimely mailing of ballots, which resulted in less than half the membership casting votes. You alleged that ballots were mailed to members just over the minimum fifteen days required. You alleged that the mailing of ballots less than three weeks before the election did not give members sufficient time to know whether their ballots were lost in the mail or returned as undeliverable.

Section 401(e) of the LMRDA provides that not less than fifteen days prior to the election, notice of the election shall be mailed to each member at his or her last known home address, and that every member in good standing shall have the right to vote in the election. 29 U.S.C. § 481(e). Where the ballot serves as notice of the election, unions must mail ballots to all members fifteen days prior to the deadline by which ballots must be returned. 29 C.F.R. §§ 452.99, 452.102.

The Department's investigation found that ballot packages, including election notice and voting instructions, were mailed to all members postmarked November 20, 2018, with a return deadline of December 6, 2018. In addition, the investigation established that the voting instructions notified members of the option to bring their voted ballot,

once placed in the small secrecy envelope and sealed and placed in the larger return envelope, to the division meeting held on December 6, 2018. The investigation further established that members were permitted to cast ballots in person at the December 6, 2018, division meeting, and that you were able to cast your ballot by that method. There was no violation.

You next alleged that the election committee did not check the post office box for returned undeliverable ballots until the night of the election, at which time they discovered many undeliverable ballots returned. You alleged that the BLET bylaws require the election committee to develop a schedule and check the post office box periodically so that an effort may be made to notify members whose ballots were undeliverable. You alleged that the election committee informed you that over 40 ballots were returned as undeliverable, which you allege could have affected the outcome of the election. You further alleged that several members complained that they had received mail from the BLET in the previous year, but their ballots were returned as undeliverable to Division 683.

As noted above, section 401(e) of the LMRDA requires that every member in good standing have the right to vote. In addition, section 401(e) requires that the union conduct its election in accordance with its constitution and bylaws insofar as they are not inconsistent with Title IV of the LMRDA. 29 U.S.C. § 481(e). The BLET bylaws require the division election committee to “develop a schedule for the preparation and mailing of ballots, checking the post office box for undeliverable ballots, and picking up voted ballots immediately prior to the election meeting.” Sec. 7(g), Local Division Rules, Bylaws of the Brotherhood of Locomotive Engineers & Trainmen (2014) (hereinafter LDR). The BLET bylaws also require the election committee periodically to open the post office box to which undeliverable ballot packages are returned “to ascertain if any nondeliverable ballots are therein; and efforts will be made by the committee to re-mail them to the member(s)['] correct address.” Sec. 8(a), LDR.

The investigation confirmed that the election committee did not develop a schedule for checking the post office box for undeliverable ballots. The investigation further confirmed that the election committee did not pick up any undeliverable ballots from the post office box until the day of the election; December 6, 2018. These failures violated section 401(e) of the LMRDA. However, as explained below, this violation could not have affected the outcome of the election.

As part of its investigation, the Department reviewed the union’s election records. The records included a total of 16 undeliverable ballot packages retrieved from the post office box on December 6, 2018. Also as part of its investigation, the Department interviewed the postmaster at the Northlake post office where the division’s two election post office boxes were located (one for voted ballots and one for returned

undeliverable ballots); the division secretary-treasurer, [REDACTED]; and two of the three members of the election committee, [REDACTED], regarding the number of returned undeliverable ballots retrieved from the post office box. The third election committee member, [REDACTED], declined to participate in the investigation.

The postmaster stated that Division 683 picked up all mail from both boxes on December 6, 2018; none before or after. The investigation established that [REDACTED] and [REDACTED] were the only two individuals who had keys to the post office boxes. [REDACTED] stated that he and [REDACTED] retrieved all the voted ballots and undeliverable ballot packages from the post office just prior to the division meeting on December 6, 2018. [REDACTED] stated that there were a total of 15 or 16 undeliverable packages; he stated that he did not know why you thought the number was higher. [REDACTED] stated that she believed there were more than 16 undeliverable ballot packages because she could tell by looking at them; she stated that she estimated there were about 40. However, [REDACTED] acknowledged that she did not count the undeliverable ballot packages. [REDACTED], who collected and preserved the election records, confirmed that on December 6, 2018, a total of 16 undeliverable ballot packages were picked up at the post office. Therefore, the investigation did not substantiate your allegation that more than 16 undeliverable ballot packages were retrieved from the post office.

The investigation established that, of the 16 undeliverable ballots, 7 belonged to members who were ineligible to vote. Accordingly, the effect of the violation was limited to 9 votes, at most. The smallest margin of victory for any position was 13 votes, in your race for first vice local chair. Therefore, the violation could not have affected the outcome of the election.

For the reasons set forth above, the Department of Labor concludes that there was no violation of the LMRDA that may have affected the outcome of the election. Accordingly, I have closed the file on this matter.

Sincerely,

[REDACTED]
Brian A. Pifer
Chief, Division of Enforcement

cc: Dennis R. Pierce, National President
Brotherhood of Locomotive Engineers and Trainmen
7061 East Pleasant Valley Road
Independence, OH 44131

Antoine Delaine, President
BLET Division 683
2920 Burge Drive
Crown Point, IN 46307

Beverly Dankowitz, Associate Solicitor
Civil Rights and Labor-Management Division