



November 20, 2019

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to your August 11, 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 election of officers held by Local 1853 (Local 1853 or the union) of the United Auto Workers, AFL-CIO, on May 1-2, 2017.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded that a violation of the LMRDA occurred with respect to one of your allegations, but this violation did not affect the outcome of any race. This conclusion is explained below.

You alleged that the election committee did not communicate or mark the boundaries for campaigning around the polls as required by the union bylaws. In this regard, you claimed that several candidates were distributing campaign literature within the polling area and that campaign material was seen on cafeteria tables both neatly stacked and randomly-placed. Sections 401(c) of the LMRDA, requires that adequate safeguards to ensure a fair election be provided. 29 U.S.C. § 481(c). Additionally, Section 401(e) of the LMRDA requires that LMRDA-covered elections be conducted in accordance with a union's constitution and bylaws. 29 U.S.C. § 481(e).

Article XII, Section 19, of the union's bylaws state: "The election committee shall determine the polling places for each election, including boundaries around each polling place beyond which campaigning and campaign materials are not allowed, and this will be clearly communicated to the membership prior to the election." Although the Department's investigation found that the election committee informed candidates of polling rules and boundaries prior to and during the election, the investigation found no evidence that the union informed the membership about the boundaries of the area around each polling place where campaigning and campaign materials were

prohibited. Nor did the investigation reveal any evidence that signs delineating such boundaries were posted. The union acknowledged that this had not been done. Accordingly, a violation occurred.

Section 402(c) of the LMRDA provides, however, that an election will be overturned only when a violation may have affected the outcome of the election. Here, the investigation revealed that the violation could not have affected the outcome of the election. The voting took place in a separate room that was accessible from the cafeteria. The local's bylaws do not specify a minimum distance for the boundaries of the no-campaigning zone around the polling place, but the investigation revealed that the local has historically used a local county election rule of 100 feet as a guide. OLMS measured the distance between the entrance to the cafeteria and the area where members cast their ballots and noted that this distance was 107 feet.

Significantly, the investigation uncovered no evidence that candidates had campaigned inside the cafeteria. While the evidence indicated that campaign literature could be observed scattered on some tables and stacked on others, the evidence indicates that members discarded campaign literature on tables on their way to or from the polls, and that literature was later stacked by the cleaning crew for reuse or recycling. Therefore, absent any evidence showing that campaigning actually occurred within the no-campaigning zone, the investigation did not establish that the violation may have affected the outcome of the election.

You also alleged that the Local 1853 Election Committee did not provide an adequate membership list. The positions that may have been affected by this allegation were the committeemen and zone committeemen. These positions are not covered by Title IV of the LMRDA because, similar to the shop steward position, they are not constitutional officer positions.

Those allegations that you raised for the first time during your interview with the investigator were not considered to be within scope because you failed to raise them in your original election protest to the union and therefore failed to properly exhaust your available remedies under the constitution. Further, your allegations regarding Tennessee law and the National Labor Relations Act are outside the scope of the LMRDA.

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. Accordingly, the office has closed the file regarding this matter.

Sincerely,



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Chief, Division of Enforcement

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