



March 24, 2020

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to your November 18, 2019 complaint to the Department of Labor (Department) alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the election of officers of Local Union 100 (local or Local 100), International Brotherhood of Teamsters (National), conducted on December 19, 2019.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department concluded that there were no violations that may have affected the outcome of the election.

You alleged the incumbent slate campaigned on time paid for by the union at two employer sites, distributing merchandise paid for with union funds. Specifically, you alleged that on July 18, 2019, the incumbent slate campaigned at UPS Sharonville and again on August 1, 2019 at UPS Freight, distributing union-purchased t-shirts and donuts which had been transported to those locations using the local's trailer. Section 401(g) prohibits the use of union funds to promote any person's candidacy. 29 U.S.C. § 481(g). Union funds are broadly defined to include union resources, property, equipment, and time paid to officers and staff while performing work for the union. 29 C.F.R. § 452.76.

The investigation disclosed that the membership voted in favor of purchasing t-shirts for all members on December 7, 2017. Pursuant to that authorization, the local purchased t-shirts four times in the following years: June 2018, October 2018, March 2019, and July 2019. Distribution of those t-shirts commenced within two days of receipt of the merchandise purchased in 2018. However, inclement weather delayed the distribution of the March 2019 purchased merchandise to July when additional t-shirts were purchased. The investigation showed that members were required to sign their name on a ledger to indicate receipt of the t-shirt.

The Department's investigation confirmed that several incumbent officers and/or office staff visited both UPS facilities to distribute free t-shirts and donuts. All local officers and staff members were on time paid for by the union, and the local trailer was also used to transport all items to those locations. The Department's investigation also disclosed that the local's trailer was purchased in February 2018. The incumbent slates' names along with their local officer positions were lettered onto the trailer in July 2018. The Department's investigation disclosed that no campaigning occurred at either facility. Every member the Department interviewed stated that no local officer or staff member ever mentioned the upcoming election. The purpose of the t-shirt distribution was to promote the union and thank members for their membership. With regard to the incumbents' names and titles on the trailer, the Department's investigation disclosed that the lettering preceded the November 7, 2019 nominations by over one year. The lettering on the trailer did not show the incumbent officers as a slate of candidates for office. Rather, it merely identified their names and officer titles while they were serving in those positions.

The investigation failed to establish that union funds were used to promote the candidacy of the incumbent slate at either UPS facility. Furthermore, even if the incumbent slate had improperly campaigned -- and there is no such evidence here --- there would be no effect on the outcome of the election because the incumbent slate lost the election for every office. There was no violation.

In a related allegation, you asserted that, as a condition of obtaining free t-shirts and donuts, members were required to provide their telephone numbers which allowed incumbents to expand their campaigning endeavor, an advantage denied to your slate. Section 401(c) requires unions to treat candidates equally with respect to the distribution of lists of members. 29 U.S.C. § 481(c). The investigation disclosed that the incumbent officers and local staff took no member's telephone number. The Department's investigation disclosed that all members interviewed made consistent statements that there was no solicitation of telephone numbers and none were collected during the distribution of the t-shirts at either employer site. There was no unequal treatment with respect to members' telephone numbers because none were collected. There was no violation.

Lastly, you alleged that the local improperly permitted incumbent slate members to rule on your pre-election protest, in violation of Article XIX of the National Constitution which requires recusal where a conflict of interest exists. You believe that the incumbents should have recused themselves from hearing your election protest because of a conflict of interest given that they were the target of your protest. Section 401(e) requires unions to conduct their elections in conformity with their constitution and bylaws. 29 U.S.C. § 481(e). Article XIX of the Constitution is captioned "Charges and

Trials” and addresses charges brought against a member and the local executive board’s duty to try that member unless the member charged is a member of the local executive board. In short, this constitutional provision relates to internal union discipline proceedings. In contrast, Article XXII, Section 5(a), captioned “Local Unions, Nominations and Election Protests,” directs members protesting an election of officers to file his or her protest with the local secretary treasurer who is to refer the protest to the local executive board.

Article XIX is inapplicable to election protests. You were not charged with violating the constitution, nor were you charging any local executive board member with misconduct unrelated to the election at issue. Rather, you filed an election protest which the National confirmed is governed by Article XXII, Section 5(a). The local executive board followed the appropriate constitutional provision for election protests. There was no violation.

For the reasons set forth above, the Department has concluded that no violation of the LMRDA occurred, and I have closed the file in this matter.

Sincerely,



Chief, Division of Enforcement

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