



April 24, 2020

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to the complaint filed on behalf of your True Blue Teamsters United Slate with the Department of Labor (the Department) on July 1, 2019, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA or the Act) occurred in connection with the election of union officers conducted by International Brotherhood of Teamsters (IBT) Local 651 on November 15, 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 alleged that Local 651 denied members the opportunity to vote in the election. More specifically, you alleged that the union neglected to update its membership mailing list for use in the election, and as a result, approximately 300 wrongly addressed ballots were returned as undeliverable; that it failed to correct known bad addresses; and that when members requested ballots, some either did not receive them or received them too late to vote. You further alleged that the union's failure to update its mailing list specifically harmed your slate. Section 401(e) of the LMRDA ensures a right to vote for all members in good standing. 29 U.S.C. § 481(e). As the Department's regulations explain, the statutory right to vote requires that unions provide members with a reasonable opportunity to vote. 29 C.F.R. § 452.94. Where administrative issues result in a failure to mail ballots to current members, that right may have been compromised. However, a union typically satisfies its obligation to mail a ballot to each member when it makes reasonable efforts to maintain a current mailing list. In addition, Section 401(c) of the LMRDA more generally requires a union to provide adequate safeguards to insure a fair and democratic election. 29 U.S.C. § 481(c).

Contrary to your allegation, the Department's investigation disclosed that Local 651 did take reasonable steps to maintain an accurate membership mailing list, before and during the election period, through a variety of methods. In fact, as your joint complainant, then-[REDACTED], acknowledged, the local "constantly adds addresses" to the list. For instance, the union updated its membership list whenever employers provided new hire applications. Members were also asked for new addresses whenever they called

the union hall. Additionally, the International Union communicated updates to the mailing list when they received address corrections through the national system.

Local 651 also had a process for handling mail returned as undeliverable, such as quarterly newsletters. This mail was placed in a banker's box, and staff members would work to obtain new addresses whenever they had time – first organizing the mail alphabetically to avoid duplicate work and then calling the member. The investigation revealed that the union would also pay United Parcel Service (UPS) members lost time on occasion to help update addresses.

Although you alleged that about 300 ballot packages were returned due to incorrect addresses during the election period, the Department's investigation revealed that the number was far lower. Furthermore, the Election Supervisor re-mailed all ballot packages returned as undeliverable with a new address affixed by the post office. If no forwarding address was provided, the information was logged in a spreadsheet for the office staff to update using the process described above. Local 651 mailed approximately 3,000 ballot packages to its membership, and only a slim percentage were returned as undeliverable; even fewer were for eligible members. Finally, the investigation failed to produce any evidence that members of the True Blue Teamsters United Slate were particularly impacted by ballot mailing issues, or that other candidates were benefited. There was no violation.

The investigation also revealed that office staff sent out ballots in response to any requests they received – from individual members contacting the union office or stewards and business agents communicating requests on their behalves – contrary to your allegation that ballot requests were ignored or belatedly answered. All ballot requests were recorded, along with their status, in logs that everyone in the office shared and that were regularly reported to [REDACTED] and the Secretary-Treasurer at the time. In fact, at [REDACTED] request, he received daily updates on the effort to correct addresses and mail duplicate ballots. There was no violation.

Additionally, you alleged that then-Secretary-Treasurer [REDACTED] violated Local 651's Bylaws and election rules by contacting Election Supervisor [REDACTED] directly to request duplicate ballots for members, and that by doing so, he gave himself an advantage in his candidacy for President. Section 401(e) of the LMRDA requires that elections be conducted in accordance with the union's constitution and bylaws as long as they are not inconsistent with the provisions of the Act. 29 U.S.C. § 481(e). Neither the IBT Constitution nor the Local 651 Bylaws address the manner in which members must request duplicate ballots or the Secretary-Treasurer's involvement in the process. However, as noted above, Section 401(c) of the LMRDA requires a union to provide adequate safeguards to insure a fair election. 29 U.S.C. § 481(c). A labor organization's wide range of discretion regarding the conduct of officer elections is thus circumscribed by a general rule of fairness. 29 C.F.R. § 452.110.

The investigation disclosed that Local 651's election notice suggested that any members who had not received a ballot by October 29, 2018, should call the office and request a ballot. But members requested ballots through several means, which included contacting officers, stewards, and business agents. ██████ confirmed that ██████ forwarded a few names of members in need of ballots to her, some of whom had already been mailed duplicate ballots. ██████ also put ██████ phone number on the Local 651 Facebook page so that members could contact her directly.

Moreover, there is no evidence that ██████ screened the ballot requests he received – by only transmitting those likely to vote for him, for instance – or that his forwarding them advantaged any candidate over another. Any union officer or employee, including ██████ could have fielded ballot requests from members and transferred them to ██████ IBT found that there was nothing improper about ██████ doing so, or inconsistent with the union's election rules. There was no violation of Local 651's Constitution and Bylaws or the LMRDA.

You also alleged that then-Secretary-Treasurer ██████ and steward ██████ the successful candidates for President and Recording Secretary, respectively, violated Local 651's Bylaws and election rules by serving as observers at the ballot retrieval and tally. As explained above, Section 401(e) of the LMRDA requires elections to be conducted in accordance with the union's constitution and bylaws, provided they are not inconsistent with the provisions of the Act. 29 U.S.C. § 481(e). Both the IBT Constitution and the Local 651 Bylaws grant candidates the right to have an observer other than themselves present at the polling place, at their own expense, as well as the right to personally attend the counting of ballots. IBT Constitution, Art. XXII, Sec. 4(b); Teamsters Local No. 651 Bylaws, Art. 17, Sec. (E)(3). The Local 651 Bylaws specifically entitle candidates to have such an observer at the ballot tally as well. Art. 17, Sec. (E)(3). The LMRDA also requires that candidates be permitted to have an observer at the polls and at the counting of ballots, and provides no prohibition on a candidate serving as his or her own observer. 29 C.F.R. § 452.107.

Local 651's observer rights information sheets, signed by each observer, outlined the date and time candidates and their designated observers could meet Election Supervisor ██████ at the post office to retrieve ballots and/or travel to the count site. The investigation revealed that ██████ and at least two observers for your slate were present at the pick-up of ballots at the post office, in accordance with that protocol. ██████ rode alone with the ballots to the tally site. Multiple people from both slates, including ██████ observed the ballot tally. No candidates or members of the local touched or handled the ballots in any way. There was no violation of Local 651's governing documents or election rules, or of the LMRDA.

Finally, you alleged that Election Supervisor ██████ continued to send out replacement ballots after the November 6, 2018 deadline listed in the union's election rules, and that this activity may have benefited another slate. As previously noted, Section 401(c) of the Act requires a union to provide adequate safeguards to insure a fair and democratic

election. 29 U.S.C. § 481(c). A union's failure to provide voters with adequate instructions for properly casting their ballots may violate this requirement. 29 C.F.R. § 452.110.

Local 651's election notice stated that duplicate ballot requests could be requested through November 6, 2018. In order to be counted in the election, the member's completed ballot would need to be received by November 15, 2018. The investigation disclosed that [REDACTED] mailed replacement ballots until November 10, 2018 and that the last ballot mailing was in response to requests received on November 7, 2018. According to the Department's review of records, only three replacement ballots mailed after November 6, 2018 were included in the election tally. The investigation further indicated that [REDACTED] directed office staff to continue forwarding ballot requests to [REDACTED] past November 6, 2018, and that you also transmitted several requests for duplicate ballots after the deadline. The investigation did not produce any evidence that [REDACTED] provided an advantage to any candidate or slate over another by sending duplicate ballots after November 6, 2018. There was no violation.

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 in this matter.

Sincerely,

[REDACTED]

Chief, Division of Enforcement

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