



July 21, 2020

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on April 8, 2020, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the December 4, 2019 general election of officers and the December 11, 2019 runoff election that were conducted by Local 732 of the Amalgamated Transit Union (Local 732).

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded that, with respect to each of your specific allegations, no violation occurred that may have affected the outcome of the election.

You alleged that Local 732 violated section 401(e) of the LMRDA by allowing two ineligible candidates, [REDACTED], to run for office. Section 401(e) provides that union officer elections shall be conducted in accordance with the local's constitution and bylaws. 29 U.S.C. § 481(e). Under Local 732's constitution and bylaws, prospective candidates must have been a member in good standing for two continuous years prior to nominations. You alleged that a gap in [REDACTED] membership status caused by a termination rendered her ineligible to run for office. The investigation established that MARTA terminated [REDACTED] in 2018. [REDACTED] filed a grievance regarding her termination. Under union rules, as described in the International's June 30, 2016 response to an inquiry on eligibility, [REDACTED] was allowed to remain a member in good standing while that grievance was pending. [REDACTED] lost her grievance in March 2019; she was hired by another Local 732 covered employer later in 2019. While you alleged this chain of events rendered [REDACTED] ineligible by causing a gap in her membership status, the investigation established that [REDACTED] was covered by a separate collective grievance during the alleged gap period. Local 732 determined that [REDACTED] was eligible to run for office under the local's constitution and bylaws because the second collective grievance was still pending.

MARTA terminated ██████████ in February 2019. Local 732 subsequently filed a grievance on his behalf. The investigation determined that an arbitration hearing was held on January 30, 2020. The case is now at the post hearing stage. MARTA and Local 732 agreed to an extended moratorium of all arbitration cases because of the COVID-19 pandemic. Local 732 determined that ██████████ remained eligible to run for office under the local's constitution and bylaws because of the pending grievance. Accordingly, no violation occurred that affected the outcome of the election.

You also alleged that Local 732 violated section 401(e) of the LMRDA by turning supporters of candidate ██████████ away from the Gwinnett County polling location during the December 4, 2019 general election. Section 401(e) provides that every member in good standing shall have the right to vote in union elections. 29 U.S.C. § 481(e). While you could not provide the names of any specific members who were turned away from the polls, you suggested that Department investigators should talk with ██████████. ██████████ said that ██████████ was possibly turned away from the polling site despite being a dues paying member. The investigation established that any member who was not on the eligibility list was able to cast a challenged ballot. The election records indicate that six challenged ballots were voted at the Gwinnett County polling location, including one cast by ██████████. The Election Committee subsequently counted two of the challenged ballots after determining that they were cast by eligible members. Because Local 732 did not deny any members the right to vote a challenged ballot at the Gwinnett County polling station, no violation occurred that affected the outcome of the election.

You also alleged that Local 732 failed to adequately secure the general election ballots between the two days when votes were tallied - December 4, 2019 and December 5, 2019. Section 401(c) of the LMRDA requires local labor organizations to provide adequate safeguards to insure a fair election. 29 U.S.C. § 481(c). The investigation established that Local 732 contracted with Honest Ballot to conduct the election and print the ballots. After the December 4, 2019 election, Honest Ballot employees duct taped the open portion of the locked ballot boxes at each polling site and transported them to the main polling location in Atlanta, Georgia. The Election Committee and Honest Ballot began tallying the election results on December 4, 2019. Under the procedures used, an Honest Ballot representative unlocked the ballot boxes and removed the duct tape from the opening. Challenged ballots were placed to the side. The paper ballots were tallied and added to the electronic count from the Atlanta polling site. The Election Committee and Honest Ballot representatives were unable to verify the eligibility of the challenged ballots on the night of December 4, 2019 because no one was in the union office at 9:00 PM. The Election Committee and Honest Ballot representatives decided to check voter eligibility the next day. An Honest Ballot representative sealed the ballots and election records and took them to her hotel room. She did not leave the records in her car overnight. On December 5, 2019, the representative flew to New York and transported the records directly to the Honest Ballot offices in Floral Park, New York. Honest Ballot Representatives opened and counted five of the challenged ballots that were deemed to be from eligible voters on

December 5, 2019. Because the ballots were secure at all times, no violation occurred that 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,



Brian A. Pifer
Acting Chief, Division of Enforcement

cc: Beverly Dankowitz, Associate Solicitor, DOL

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