



July 21, 2020

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on March 18, 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 the LMRDA by denying member [REDACTED] a replacement ballot during the general election to correct a mistaken vote. The investigation established that [REDACTED] accidentally marked the wrong candidate for Vice-President of Maintenance and Non-MARTA Properties. Local 732 election officials told [REDACTED] that the Gwinnett County polling station did not have enough ballots to allow for a replacement. The officials instructed [REDACTED] to cross out her mistaken vote, initial her markings, and vote for her preferred candidate. [REDACTED] followed those instructions. A review of the elections records established that one ballot included the initials "NLS" next to a crossed out vote. The investigation further established that the corrected vote was included in the official election tally. Section 401(b) of the LMRDA provides that local labor organization elections shall be conducted by secret ballot. 29 U.S.C. § 481(b). While the Department concluded that Local 732 violated section 401(b) by counting a ballot that election officials had instructed Ms. Scott to initial, the violation did not affect the outcome of the general election because no race was decided by a single vote.

You also alleged that Local 732 violated section 401(e) of the LMRDA by distributing an election notice to members that included the wrong address for a runoff

election polling site. Section 401(e) of the LMRDA requires local labor organizations to mail an election notice to each member at his or her last known home address. 29 U.S.C. § 481(e). Such notice must include the date and location of the election, among other information. 29 C.F.R. § 452.99. The investigation established that Local 732 distributed an election notice dated October 10, 2019 that stated if a runoff was necessary, MARTA employees would vote at “IBEW Auditorium, 501 Pulliam Street SW, Atlanta, Georgia 30312.” Shortly before the runoff election, the Election Committee learned that the IBEW Auditorium was not available for use as a polling site. The Election Committee secured new space in a facility that shared a parking lot and address with the IBEW Auditorium: “IBEW Building on the 3rd floor in room 311, 501 Pulliam Street, S.W., Atlanta, GA 30312.” The Election Committee prepared a new election notice dated December 5, 2019, which it posted at all MARTA locations. The Election Committee claimed that there was not enough time to mail the new notice to the membership before the December 11, 2019 runoff. On the date of the runoff, the Election Committee posted signs around the IBEW Auditorium directing members to the new polling location. The investigation did not identify any member who was unable to vote because of the change in location. While one candidate alleged that a particular member was unable to vote because she went to the IBEW Auditorium, a review of the runoff election sign-in sheet establishes the member cast a vote in the runoff. While Local 732’s failure to mail an election notice with the correct MARTA runoff polling location violated section 401(e) of the LMRDA, that violation did not affect the outcome of the election.

You also alleged that Local 732 violated section 401(c) of the LMRDA by printing your name on the ballot with typography that was less prominent than the typography used for other candidates. Section 401(c) prohibits disparate treatment of candidates for union office. 29 U.S.C. § 481(c). The investigation established that candidates were able to choose how their names would be printed on the ballot. At two different candidate meetings, the Election Committee asked those running for office how they would like their names to appear on the ballot. You did not attend either meeting. The Election Committee subsequently emailed all candidates with a sample that showed how their names would appear on the ballot and asked if any changes should be made. Without providing any specific instruction or explanation, you responded with an email that included only your name in capital letters. Given the lack of explanation and unclear intent, Election Chairperson [REDACTED] attempted to contact you by phone and by email to clarify how you wanted your name to appear on the ballot; she did not receive a response. Election Committee member [REDACTED] also attempted to contact you without success. [REDACTED] left your name in standard typography because she was not able to clarify how you wanted your name to appear. The Election Committee took similar steps when another candidate responded to the sample ballot email with a message that included only her name in capital letters and no additional context or instructions. [REDACTED] attempted to contact the candidate and left that candidate’s name in standard typography when the candidate did not respond to clarify her intent. Accordingly, the Election Committee did not engage in disparate

treatment of candidates and no violation occurred that affected the outcome of the election.

You also alleged that Local 732 violated section 401(e) of the LMRDA by denying 15-20 dues paying members the right to vote at the Gwinnett County polling station 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). You were not able to provide the names of members who were denied the right to vote. 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. The Election Committee subsequently counted two of those 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 violated section 401(g) of the LMRDA by using MARTA buses to transport voters. Section 401(g) prohibits employer money from being used to promote any specific candidacy. 29 U.S.C. § 481(g). The investigation established that MARTA buses were not used during the December 4, 2019 general election. The investigation also established that newly elected president ██████████ asked a MARTA official to use buses to transport voters during the December 11, 2019 runoff election. The official agreed on two conditions: 1) campaigning would not be allowed on the buses; and 2) the buses would be available to transport all members rather than target specific voters. The investigation did not find any evidence that the buses were used to target specific voters or promote specific campaigns. 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 allowing an ineligible candidate, Angela Hamby, to run for Vice-President of Maintenance and Non-MARTA Properties. 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 ██████████ membership status caused by a termination rendered her ineligible to stand for office. The investigation established that MARTA terminated ██████████ in 2018. ██████████ filed a grievance regarding her termination. Under union rules, as described in the International's June 30, 2016 response to an inquiry on eligibility, ██████████ was allowed to remain a member in good standing while that grievance was pending. ██████████ 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 ██████████ ineligible by causing a gap in her membership status, the investigation established that ██████████ was covered by a separate collective grievance during the alleged gap period. Local 732 determined that ██████████ was eligible to run for office under the local's constitution and bylaws

because the second collective grievance was still pending. Accordingly, 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,



Acting Chief, Division of Enforcement

cc: Beverly Dankowitz, Associate Solicitor, DOL

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