



June 15, 2009



Dear [REDACTED]:

This Statement of Reasons is in response to the complaint that you filed with the United States Department of Labor (Department) on February 11, 2009, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA or the Act), 29 U.S.C. §§ 481-484, occurred in connection with the election of union officers conducted by Local 503 of the Service Employees International Union (Local 503 or the Union), on October 14, 2008.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded regarding each allegation that no violation of the LMRDA occurred. This conclusion is explained below.

You alleged that the Union violated Section 401(c) of the LMRDA, 29 U.S.C. § 481(c), by refusing to provide you access to and a copy of Local 503's membership database when the incumbent slate had access to it. Section 401(c) specifies in pertinent part that candidates are to be given equal treatment in the use of membership lists and that a union is required to provide candidates access to membership lists for inspection once during the 30-day period preceding the election. The Act requires only that members' names and last known addresses be included on the lists available for inspection; it does not require a union to give candidates copies of its membership lists or to make available all the information that is contained in its membership database.

The Department's investigation established that the Union allowed candidates to inspect a membership list and offered mailing labels for sale to all candidates, including you. The Department's investigation uncovered no evidence that the incumbent officers ever used their access to the membership database for campaign purposes or any purpose other than their official union duties. The investigation disclosed that the incumbents and their supporters used their own personal computers to develop membership contact information using lists available to all candidates, the internet, and

contact information voluntarily provided to the candidates by members. No violation occurred.

You alleged that disparate candidate treatment occurred because the decision to deny your September 14, 2008 request for access to the database was made by Assistant Executive Director Rich Peppers, not the election committee. In this regard, you pointed out that Peppers was supervised by incumbent Executive Director Leslie Frane, who was a candidate for re-election as a member of your opponent's slate. The investigation showed that the Union's board of directors decided on March 8, 2008, that any questions concerning the election would be researched and answered by the staff advisor, Peppers, who had served in this position for 7-8 years and had always overseen the elections. The board of directors also decided that if a member were to disagree with Peppers' answer, the member could raise a complaint with the election committee. Although you appealed Peppers' decision to the Election Committee, the investigation established that Election Committee Chairperson [REDACTED] determined it was unnecessary to convene the Election Committee to review Peppers' decision because the decision was consistent with the Board of Directors established policy of not providing copies of the database to candidates. No violation occurred.

You alleged that the candidates running on the "4 for the Future" slate, particularly your opponent, [REDACTED], received advantageous treatment during a union meeting attended by 25 members at which all candidates for the Executive Director position were given equal time to campaign. In particular, you objected that you were not allowed equal participation in the meeting because Frane's presentation, containing statements in support of her slate which included [REDACTED], gave exposure to [REDACTED]'s candidacy. The investigation revealed that Frane's slate was the only slate running in the election; all other candidates were running independently. Article VI, Section 4(e) of the Bylaws requires that "All duly nominated candidates . . . be given equal access to all Union meetings and conferences, provided that the opportunity to make campaign presentations shall be consistent with the agenda and protocols for such meetings and conferences." The Department's interpretative regulations at 29 C.F.R. § 452.70 make clear that a union may not censor candidates' statements in any way. The Department's interpretative regulations at 29 C.F.R. § 452.3 provide that a union's interpretation of its constitution and bylaws will be accepted unless it is clearly unreasonable. The investigation did not show that the Union has ever interpreted this provision of the Bylaws to require equal time be given to all candidates for all offices if a candidate for a particular office mentions his or her slate, nor did the investigation reveal that the Union has ever required anything other than an equal opportunity for all candidates for a particular office to have equal time to campaign at a campaign event. Because the Union's consistent interpretation of this provision of its Bylaws is reasonable, no violation occurred.

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

Sincerely,

Patricia Fox
Acting Chief, Division of Enforcement

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