



March 24, 2017

[REDACTED]

Also sent to:

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to your September 29, 2015 and October 26, 2015 complaints filed with the U.S. Department of Labor (the Department), alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA or the Act) occurred in connection with the election of officers conducted by the Service Employees International Union, Local 32BJ (the Local).

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded that no violation occurred that may have affected the outcome of the election. The following is an explanation of this conclusion.

You allege that the Local's nomination rule, requiring members to collect signatures from at least 2 percent of the membership within a 30-day period, was "unreasonable and undemocratic" in that it did not allow your slate enough time to collect signatures. You specifically allege that you should have been allowed 90 days to collect signatures. As part of that allegation, you also stated that members should be provided with contact information for all the members, including a list of worksites, in order to obtain signatures. As a general rule, the LMRDA does not prescribe particular procedures for the nomination of candidates, and the Local is free to employ its own. However, section 401(e) of the LMRDA does require that the Local's procedures provide members with a reasonable opportunity for making nominations. Whether nominating procedures are sufficient to satisfy the requirements of the Act is a question that depends upon the particular facts in each case.

The Department investigated your allegation and found that the incumbent slate was able to collect over 21,000 valid signatures in the requisite 30-day period. By contrast, your slate obtained 872 valid signatures. The incumbent slate employed a coordinated effort to gather the 2,810 signatures needed for nomination, including obtaining

signatures after union meetings and utilizing multiple members of the slate to collect signatures. The majority of the signatures you collected were collected solely by you. The investigation also revealed that, within ten blocks of your work location in New York City, there are 5,346 buildings with 17,509 Local members working in those buildings. Due to the number of members on your slate, the number of eligible Local members within a concentrated metropolitan area, and the proximity of your work location to those members, the Department found that your slate did have a reasonable opportunity to distribute petitions and solicit signatures to meet the Local's nomination requirement within the specified 30-day timeframe. Therefore, the Department has concluded that, as applied here, the Local's rule was reasonable. There was no violation of the Act.

You next allege that certain information on the nomination notice contradicted the Local's bylaws and required clarification. You noted several alleged discrepancies between the two documents. Section 401(e) of the LMRDA requires that unions conduct elections in accordance with their constitution and bylaws insofar as the provisions of the constitution and bylaws are consistent with the LMRDA. The LMRDA requires that the notice of nomination be reasonably calculated to inform all members of the offices to be filled as well as the time, place, and form of nomination. A nomination notice meeting those requirements satisfies the requirements of the Act. The Department's investigation revealed that the nomination notice at issue here conformed to requirements of the Act. Consequently, the notice's deviation from additional language contained in the local's bylaws would not support litigation by the Secretary for violation of the nomination notice requirements of the LMRDA.

Next, you allege that the petitions for the incumbent slate, the Stand Together Team, should be invalidated for using union resources for the purpose of obtaining signatures. Specifically, you allege that a shop steward was given a list of eight building addresses in New York City--including the number of members in each building--for the exclusive purpose of obtaining nomination petition signatures for the incumbent slate. You also allege that this shop steward was given \$600 on the same day he was asked to gather signatures suggesting that union funds were used to obtain the steward's help in promoting the candidacy of the incumbents. The Department's investigation revealed that the Local, in investigating this allegation, found that the money given to the steward was unconnected to the request that he collect signatures. The local found and the DOL investigation confirmed that the \$600 paid the steward was, in fact, the steward's annual stipend, and the payment was unrelated to the steward's actions in obtaining signatures on nominating petitions. However, the investigation found that five field representatives provided stewards with building addresses and the numbers of members in each, for the purpose of assisting them in gathering signatures for the Stand Together Team. The local found that the steward's actions violated the Constitution and Bylaws and that approximately 3,100 signatures had been obtained in violation of the Constitution and Bylaws. The Election Committee invalidated the

“tainted” petitions so that the approximately 3,100 signatures on those petitions were not included in the official count of signatures obtained by the incumbent slate. As any violation was limited to those signatures identified by the Election Committee, the local’s voiding of those signatures remedied any associated violation of the Act. Without the invalidated signatures, the incumbents still had enough valid signatures to meet the petition requirement. There was no violation that may have affected the outcome of the election.

Finally, you allege that the Stand Together Team’s nominating petitions should be invalidated because they failed to include the work location of the members on each petition. As stated above, Section 401(e) requires that union officer elections be conducted in accordance with the union’s constitution and bylaws so long as they are consistent with the Act. The Department’s investigation found that Article VII, Section 1(b) of the Constitution requires that work locations be included on the nominating petitions. Here, each slate created its own petition form, in accordance with the requirements outlined in the Constitution and Bylaws. The Stand Together Team’s slate created petitions that contained a blank line at the top for listing work location. Your slate’s form had a line for work location under each member’s name. The Election Chair ruled that it was acceptable for the forms to contain a line at the top to note the work location. The Department found that both forms met the requirements in the Local’s constitution. There was no violation of the Act.

For the reasons set forth above, it is concluded that no violation of the LMRDA occurred that may have affected the outcome of the election. Accordingly, the office has closed the file on this matter.

Sincerely,

A large black rectangular redaction box covering the signature of the sender.

Chief, Division of Enforcement  
Office of Labor-Management Standards

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