



June 8, 2009

Dear |||:

This Statement of Reasons is in response to the complaint you filed with the United States Department of Labor (Department) on September 23, 2008, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA or Act), 29 U.S.C. §481-484, occurred in connection with the election of officers conducted by the New Jersey Rural Letter Carriers Association (NJRLCA or State Association), on May 4, 2008.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded regarding each of your allegations that either no violation of the LMRDA occurred or no violation occurred which may have affected the outcome of the election. This conclusion is explained below.

You alleged that all five Executive Committee members should have been elected during the May 4, 2008 election. NJRLCA is an intermediate body labor organization that elects its officers during its annual convention, in an election among delegates who have themselves been elected by secret ballot, consistent with Section 401(d) of the LMRDA. *See* 29 U.S.C. § 481(d). Section 401(d) specifies that intermediate body labor organizations must elect officers "not less often than once every four years." As a labor organization that chooses its officers by a delegate convention, Section 401(f) requires NJRLCA to conduct the convention in accordance with its constitution and bylaws insofar as they are not inconsistent with the provisions of the LMRDA. *See* 29 U.S.C. § 481(f) and 29 C.F.R. § 452.2.

Article III, Section 1 of the NJRLCA Constitution and Bylaws, dated May 6, 2007, provides that the officers of the State Association shall be the president, vice president, secretary and treasurer (which can be one position), and five Executive Committee members. Rule III, Section 1 of the Bylaws states that "[a]ll officers shall serve until the next annual Meeting of the Association *or until their successors shall be elected and installed.*" (Emphasis added.)

The investigation showed that, in addition to electing its president, vice president, and secretary-treasurer to one-year terms during the May 4, 2008 election, NJRLCA elected two Executive Committee members to serve three-year terms. The investigation also showed that, since 1992, NJRLCA has consistently elected its president, vice president and secretary-treasurer on an annual basis, while it has elected Executive Committee members to three-year terms on a staggered basis. Three year terms for officers of intermediate bodies such as NJRLCA are consistent with Section 401(d) of the LMRDA.

As the Executive Committee members indeed serve until their successors have been elected and installed, albeit three years later, the union's interpretation of its constitution to permit three year, staggered terms for Executive Committee members is thus in accordance with its constitution, which is not inconsistent with Section 401(f) of the LMRDA. Further, the investigation established that NJRLCA has subsequently changed its Constitution to reflect more clearly its practice of electing members of the Executive Committee to staggered, three-year terms. No violation occurred.

You alleged that the State Association's notice of election was deficient in accurately notifying the general membership about the nomination and election of officers to be held at the 2008 convention. Because NJRLCA elects its officers at a delegate convention, rather than by secret ballot among the membership, the Act does not require it to notify the entire membership of officer elections. The NJRLCA Constitution and Bylaws contain no provision requiring notice of nominations and election to the State Association's membership. Similarly, the Constitution of the National Rural Letter Carriers' Association, NJRLCA's parent organization, does not require notice to the membership of an election by delegates of officers at a state convention. Accordingly, there was no violation.

You alleged that the mail ballot election of Delegates to the National Convention, which concluded when the tally of ballots was reported to the NJRLCA convention on May 4, 2008, was not conducted according to the State Association's Constitution and Bylaws. Specifically, you asserted that the tie vote for the third place Delegate to the National Convention was never resolved. Section 401(e) of the Act provides that elections required by Title IV to be held by secret ballot must comply with the constitution and bylaws of the labor organization to the extent not inconsistent with Title IV. *See* 29 U.S.C. § 481(e). Article VI, Section 2(G) of the NJRLCA Constitution and Bylaws states that "[a]ll ties will be resolved by the members present at the Annual Meeting where tallies are reported to the membership."

The investigation showed that the election of Delegates to the National Convention was a secret ballot election, held by mail ballot among the State Association's membership. The investigation established that there was a tie between the third- and fourth-place

finishers in the race for 18 Delegate positions and the tie was never broken. This failure to resolve the tie thus violates the Constitution and Bylaws, and therefore Section 401(e).

The Department's regulations at 29 C.F.R. § 452.5 make clear that the Secretary will not file suit regarding a violation of Title IV unless the violation is such that the outcome of the election may have been affected. Here, the union's failure to break the tie between the third- and fourth-place finishers in the race for Delegate positions had no effect on the outcome of the election because both the third- and fourth-place finishers were elected as members of the State Association's 18-member delegation to the National Convention, with no difference in their status.

The investigation revealed that the National Rural Letter Carriers' Association would pay the expenses related to attending the National Convention incurred by the NJRLCA president and the first- and second-place Delegates; the expenses of all the other NJRLCA Delegates to the National Convention would be paid by the NJRLCA. Additionally, although 19 individuals were nominated to run for delegate positions, one dropped out, leaving a total of 18 delegates. There was no effect on the outcome of the election.

You also alleged that candidates were denied an opportunity to campaign, in violation of LMRDA Section 401(c), 29 U.S.C. § 481(c), because the NJRLCA newsletter containing the notice of nominations and election was mailed to the membership too late to allow campaigning. The Department's investigation did not substantiate your allegation.

The investigation disclosed that the January 2008 edition of the newsletter, mailed to all members in good standing on February 6, 2008, specified that the deadline for submitting campaign articles for the May 2008 election was March 15, 2008, and that members interested in mailing campaign materials could get more information by contacting the Secretary-Treasurer. The investigation further revealed that no one, including you, submitted an article for publication in the newsletter for the May 2008 election or contacted the secretary-treasurer regarding campaign mailings. Accordingly, there was no violation.

Finally, the initial protest and five addenda, which you attached to your complaint to the Department, contained 91 numbered allegations. Most of these allegations did not allege violations of Title IV of the LMRDA and are therefore not addressed in this letter. Further, those allegations concerning the Auxiliary Delegate at Large, Junior Auxiliary, and State Steward relate to union positions which do not fall under the definition of "officer" contained in the LMRDA. 29 U.S.C. § 402(n). As the LMRDA does not apply to these positions, allegations relating to them are not addressed in this letter.

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

Sincerely,

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