



February 3, 2023



Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the United States Department of Labor (Department) on September 26, 2022. The complaint alleged that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 ("LMRDA" or "Act"), occurred in connection with the election of officers conducted by the Painters District Council 16 ("DC 16" or "union"), which was completed on June 11, 2022.

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

You alleged that the DC 16 President Madison Hull should not have the authority to appoint the Election Committee or herself as Election Chair because the members of the committee were not rank-and-file members, did not work at the trade, and were hired and could be fired by candidate for Business Manager/Secretary Treasurer Robert Williams. Section 401(c) of the LMRDA requires unions to provide adequate safeguards to ensure a fair election. 29 U.S.C. § 481(c). Section 401(e) of the LMRDA provides that officer elections must be conducted in accordance with the union's constitution and bylaws insofar as they are not inconsistent with the Act. 29 U.S.C. § 481(e). The International Union of Painters and Allied Trades (IUPAT) Constitution provides that, "The President shall appoint all Committees, except as otherwise provided in this Constitution or the Bylaws of the District Council" (Sect. 142); "In January of each election year, the President of the District Council shall appoint an Election Committee from among the Delegates." Section 157(a). Article 5, Section 5.03 and Article 11, Section 11.01 of the District Council 16 Bylaws respectively mirror the provisions in the IUPAT Constitution. The Department's investigation found that the Election Committee members were all delegates to DC 16 from their local unions and were properly appointed by President Hull pursuant to the union's Constitution and Bylaws. Furthermore, the Department found that the President's self-appointment as Election

Chair was consistent with the union's past practice. There was no violation of the LMRDA.

You alleged that members of the Election Committee were biased because of their relationship with candidate for Business Manager/Secretary Treasurer Robert Williams and, as a result, allowed Williams to miss a mandatory candidate meeting. The Section 401(c) requirement that unions provide adequate safeguards to ensure a fair election encompasses a prohibition against disparate candidate treatment. *See* 29 U.S.C. § 481(c); 29 C.F.R. § 452.110. Section 401(e) also requires unions to uniformly impose candidate qualifications. *See* 29 U.S.C. § 481(e). Paragraph 7 of the Election and Campaign Rules stated that the Election Committee would meet "all interested candidates" at 4 p.m. on May 31 at a disclosed location. "[A]ny candidates unable to attend in person may attend via Zoom for the purpose of explaining the election and campaign rules." The investigation found no evidence that candidates were required to attend the May 31 meeting with the Election Committee. Accordingly, there was no violation of the Act.

You also alleged that the cost to conduct a campaign mailing to all the membership was unfair because it was so expensive. Specifically, you stated it cost over \$12,000 and thought there might have been a less expensive way for the union to handle distribution of campaign literature such as using email. Section 401(c) of the LMRDA provides that unions are to comply with all reasonable requests of any candidates to have campaign literature distributed by the labor organization, *at the candidate's expense*. 29 U.S.C. § 481(c); *see* 29 C.F.R. §§ 452.67-452.72. Additionally, unions must provide adequate safeguards to ensure a fair election and are prohibited against disparate candidate treatment. *See* 29 U.S.C. § 481(c); 29 C.F.R. § 452.110. The Department confirmed that candidates Williams and ██████ did conduct campaign mailings to the entire membership at their expense, in accordance with the LMRDA. The Department's investigation also showed that you never requested a campaign mailing or an alternative, such as campaign literature distribution by email, and thus, were never denied that opportunity. In fact, the Election Monitor contacted you to see if you wanted to do a mailing which you declined. There was no violation of the LMRDA.

In addition to the allegations discussed above, you alleged that some delegates to DC 16, who voted in the election, were not elected by the local membership. However, the June 11, 2022 election in question was not the delegate election, which took place in July 2022. Therefore, this allegation was not properly exhausted in accordance with your union's internal protest procedure, *see* 29 U.S.C. § 482(a), before you filed your complaint to the Department and was not investigated.

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

Sincerely,



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Chief, Division of Enforcement

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