



October 22, 2014



Dear [REDACTED]:

This Statement of Reasons is in response to your April 25, 2014 complaint filed with the United States Department of Labor (Department) alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the election of officers of National Postal Mail Handlers Union Local 304 conducted on December 7, 2013.

The Department conducted an investigation of your allegation. As a result of the investigation, the Department has concluded that there was no violation of the LMRDA.

You alleged that Local 304 violated the LMRDA by posting campaign flyers on union bulletin boards in violation of the union's constitution and bylaws. Specifically, you alleged that flyers offering raffle tickets to members who brought in their ballot violated election rules prohibiting the posting of campaign literature on union bulletin boards.

Section 401(g) of the LMRDA prohibits the use of labor organization funds – including union money, facilities, equipment or supplies – to promote the candidacy of any person in union officer elections. Similarly, Article VI, Section 2(J) of NPMHU's Uniform Local Union Constitution, incorporated by reference into Local 304's bylaws, states that "no union funds shall be expended, directly or indirectly, to promote or oppose any candidate for Union office. No Union facilities, equipment, stationery, or supplies, or the seal and insignia of the National Union or any Local modification thereof may be used to further any candidacy."

In evaluating whether material is campaign literature, courts have consistently held that the tone, content and timing of union-promulgated material determines whether the material is in fact material promoting candidacy which falls within the section 401(g)

prohibition. The investigation revealed that the raffle flyer was not campaign material because its content did not mention any candidates or slates. The flyer did not promote or disparage any candidate. The flyer merely incentivized voter turnout. Therefore, the raffle flyer did not violate the LMRDA or Local 304's constitution and bylaws.

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

Sincerely,

Patricia Fox
Chief, Division of Enforcement

cc: Mr. James Bell, President
Mail Handlers Local 304
6509 Montgomery Road
Cincinnati, OH 45213-1513

Mr. John Hegarty, National President
Postal Mail Handlers
Suite 500, 1101 Connecticut Avenue, NW
Washington, DC 20036-4325

Christopher B. Wilkinson
Associate Solicitor for Civil Rights and Labor-Management