



April 6, 2009



Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed with the Department of Labor on August 7, 2008. In the complaint, you alleged that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (Act), 29 U.S.C. §§ 481-484, occurred in connection with the election of officers conducted by the National Postal Mail Handlers Union, Local 311 (union) on March 25, 2008.

The Department of Labor conducted an investigation of your allegations. As a result of the investigation, the Department has concluded, with respect to each of your specific allegations, that there was no violation of the Act that may have affected the outcome of the election. Following is an explanation of this finding.

You alleged that two union employees used the union office telephones to campaign against you. Section 401(g) of the Act, 29 U.S.C. § 481(g), prohibits the use of employer funds to promote the candidacy of any person. Thus, employer facilities and equipment may not be used for campaign purposes. The investigation disclosed that the union's office manager told one union member not to vote for you when the member telephoned the union office and spoke with office manager. Such campaigning constituted a violation of section 401(g) of the Act. However, only one member was the recipient of the improper campaigning and the smallest vote margin was six votes. Thus, there was no violation of the Act that may have affected the election outcome.

In addition, you alleged that the election judge collected ballots from three members. Section 401(c) of the Act, 29 U.S.C. § 481(c), contains a general mandate that unions provide adequate safeguards to ensure a fair election. *See* 29 C.F.R § 452.110. The investigation disclosed that one member gave a sealed envelope containing the member's voted ballot to an election judge for mailing while they were in the work area of the postal facility where they both work. While providing the ballot to the judge may

have opened the door to ballot fraud or tampering, the member stated during the investigation that she watched the election judge as he deposited the envelope into a machine used to process the mail. The investigation showed that the ballot was among the election records. Of the remaining two members, one refused to be interviewed by the Department and the other denied that he gave his voted ballot to the election judge. Thus, no violation of the Act occurred that may have affected the election outcome.

Finally, you alleged that an election judge campaigned at work. During the investigation, you explained that everyone campaigned at work and, thus, you were not complaining about campaigning on employer property. Rather, your concern was that the election judge showed a preference for a particular candidate by campaigning at work for an opposition candidate. Thus, she may have been biased while serving in the capacity of an election judge. Section 401(c) of the Act, 29 U.S.C. § 481(c), contains a general mandate that unions provide adequate safeguards to ensure a fair election. The investigation did not disclose that the election judge showed a preference for one candidate over another candidate or that she engaged in any other election impropriety while executing her duties on the election committee. The Act was not violated.

For the reasons set forth above, it is concluded that no violation of the Act occurred that may have affected the election outcome. Therefore, I have closed the file on this matter.

Sincerely,

Cynthia M. Downing
Chief, Division of Enforcement
Office of Labor-Management Standards

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