



February 12, 2021



Dear [REDACTED]

This Statement of Reasons is in response to your complaint to the Department of Labor, received July 13, 2020, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the mail ballot election of union officers that concluded on June 12, 2020, by Local 89, American Postal Workers Union (APWU).

The Department of Labor conducted an investigation of your allegations. As a result of the investigation, the Department concluded that there were no violations that may have affected the outcome of the election.

You alleged the local denied you the right to observe the rental of a post office box that was used for the collection of voted ballots. Section 401(c) of the LMRDA provides, in relevant part, that adequate safeguards to ensure a fair election shall be provided, including the right of any candidate to have an observer at the polls and at the counting of the ballots. 29 U.S.C. § 481(c). In any secret ballot election conducted by mail, this right includes permitting candidates the opportunity to have an observer at the preparation and mailing of the ballots. 29 C.F.R. § 452.107(c). Although the local constitution does not address the issue of observers at the preparation and mailing of the ballots, the Local 89 APWU Election of Officers Rules for the Election of 2020, dated May 5, 2020, specified that candidates, or their designated observers, have the right to observe the preparation and mailing of ballots.

The investigation disclosed you made your request to observe the rental of the election post office box on May 6, 2020, at the candidates' meeting. At that meeting, the election committee chair advised you that the post office box for the collection of voted ballots had already been rented on April 23, 2020. The local was not required to inform candidates of the rental date for the post office box or afford candidates an opportunity to observe that transaction. Neither the LMRDA, nor the local union's governing documents, nor the local's election rules provided candidates the right to observe the rental of a post office box used in the officer election. There was no violation.

In a related allegation, you alleged that the post office box rented by the local was not secured, thereby allowing unrestricted access to the voted ballots. Section 401(c) of the

LMRDA requires unions to provide adequate safeguards to ensure a fair election. Article XI, section 18 of the Local 89 constitution provides, in relevant part, that “[t]he selected balloting association shall use a return address at a Post Office not represented by the Philadelphia, PA Area Local 89 on the outer and inner envelopes.” The investigation disclosed that the return address for the voted ballots was P.O. Box 608, Darby, Pennsylvania. Since no Local 89 members are employed at the Darby Post Office, the local conformed to this provision in its constitution. In addition, the election committee chair specifically instructed the Darby post office to provide no keys to the post office box to anyone at the local, including election committee members, until June 12, 2020, the date of the election. The election committee chair reiterated his instruction by letter dated May 13, 2020, to the Darby Postmaster General, directing the post office not to provide keys or access to the local’s rented P.O. Box until June 12, 2020. The investigation confirmed that the Darby Post Office issued no key to the post office box, nor did any of its postal workers provide any person access to that rented post office box before the election date.

As to allegations in your complaint to the Department not addressed in this Statement of Reasons, those allegations are dismissed because you failed to properly exhaust those issues as required by section 402 of the LMRDA. 29 U.S.C. § 402.

It is concluded that no violation of the LMRDA occurred. Accordingly, the office has closed the file in this matter.

Sincerely,



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Chief, Division of Enforcement

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