



February 23, 2021



Dear [REDACTED]:

This Statement of Reasons is in response to your complaint to the Department of Labor, received October 16, 2020, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), occurred in connection with the mail ballot election of union officers concluded on December 17, 2019, by Local 301 (local or Local 301), National Postal Mail Handlers Union (NPMHU).

The Department of Labor (Department) 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 failed to notify candidates of the time and place ballots would be collected, in violation of the NPMHU Uniform Local Union Constitution. Section 401(e) requires, in relevant part, that unions conduct their elections in accordance with their constitution and bylaws. 29 U.S.C. § 481(e). Section 401(c) mandates, 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 every phase of the counting and tallying process. 29 U.S.C. § 481(c). Article VI, Section 2F of the NPMHU Uniform Local Union Constitution provides that "[u]pon qualifying the candidate, the Judges of election shall notify each candidate of his/her right to have observers present at all times during the conduct of the election and shall give reasonable notice to the candidate and his/her observer, if known by the judges, of the time and place of each phase of the balloting process." Section 4C of the NPMHU Uniform Local Union Constitution provides that "[a]t the deadline for the receipt of ballots, all ballots must be picked up from the post office box by the Judges of Election in the presence of the observers."

The investigation disclosed that at the October 19, 2019 nominations meeting, you inquired when and where various election-related events would take place. The head election judge, [REDACTED], one of three election judges, advised that he would provide that information as it became available. You made another inquiry about such dates in a telephone conversation with election judge [REDACTED] who again advised that

information would be forthcoming. [REDACTED] issued a Key Dates to Candidates notice which identified balloting events and dates, the most pertinent of which was “final ballot collection” with the date noted as December 17, 2019. However, the local posted a notice on bulletin boards at the employer’s premises announcing that ballots were due by 5pm December 16, 2019. On December 17th at approximately 8:30 am, [REDACTED] and one other election judge collected the ballots from the Wayland Post Office. No observers were present.

Although you provided your observer’s name to the head election judge, he failed to provide you or your observer with the date, time, and place for the collection of the ballots from the post office, in violation of section 401(c) and the NPMHU Uniform Local Union Constitution. However, those violations did not affect the outcome of the election. The Department’s thorough review of the election records disclosed no evidence of fraud or misconduct, nor did you provide any such evidence of fraud or misconduct. The Department’s review of the election records showed that the number of ballots collected from the post office was nearly identical to the number of ballots for which the local paid for business reply envelopes. The Department concludes that there is insufficient evidence to establish probable cause to believe that this violation may have affected the outcome of the election.

You also alleged that the local placed improper restrictions on you/your observer when it denied you the right to review the voter list at the tally in violation of section 401(c) of the LMRDA. You explained that you wanted to confirm that 25 of your supporters had their votes included in the tally, but your request was denied. As noted above, candidates are entitled to have observers, including themselves, present at every stage of the balloting and tally process. *See* 29 U.S.C. § 481(c).

The investigation disclosed that MK Elections, the company that the local hired to conduct its election, compiled the voter eligibility list as it scanned each voted return ballot envelope. Those members’ names were displayed on MK Election’s computer, visible to anyone present, and compiled into a database constituting a list of eligible voters. No other voter eligibility list existed because the local mailed ballots to eligible members only. A projector was used to display each ballot removed from the outer envelope and those ballots showed no identifying marks.

The Department’s investigation found that the local placed no restriction on your movement or on the movements of any other candidate or observer. All present at the tally were free to move through the tally room and view MK Election’s computer to see the collection of members’ names into the database. The Department’s review of the election records showed that 24 of the 25 members you identified returned a ballot; however, one of these 24 ballots was not included in the tally because it was returned

after the deadline for ballot receipt. Only one of the 25 members did not return a ballot. There was no violation.

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

Sincerely,



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Chief, Division of Enforcement

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