



March 23, 2021



Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the U.S. Department of Labor on July 6, 2020, alleging that a violation of Title IV of the Labor-Management Reporting and Disclosure Act ("LMRDA"), 29 U.S.C. §§ 481-483, occurred in connection with the mail ballot election of union officers completed by the American Postal Workers Union, Northwest Illinois Area Local ("NWIAL"), Local 7140, on September 1, 2020. The Department conducted an investigation of the complaint. As a result of the investigation, the Department has concluded that, to the extent a violation of the LMRDA occurred, it has been remedied by the NWIAL. 29 U.S.C. § 482(b).

You alleged that the NWIAL did not conduct an election of officers within three years after its April 24, 2017 election. Section 401(b) of the LMRDA provides, "[e]very local labor organization shall elect its officers not less often than once every three years by secret ballot among the members in good standing" 29 U.S.C. § 481(b); *see also* 29 C.F.R. § 452.23. Section 401(e) of the LMRDA requires a labor organization to conduct its election of union officers in accordance with the constitution and bylaws of such organization. 29 U.S.C. § 481(e); *see also* 29 C.F.R. § 452.2. Article 11, Section 2 of the NWIAL Constitution provides, "the term of all elected officers shall be three (3) years and all officers shall be installed into office the first Sunday of May." Section 14 of that article provides, "ballots shall be counted prior to April 30 in the election year."

The investigation found that the NWIAL's regular election of officers was scheduled for April 24, 2020. In preparation of that election, the NWIAL president selected an election committee ("LEC") in January of 2020. The notice of nominations and elections was published in the March 2020 issue of the NWIAL newsletter, which was mailed to members in late February of 2020. The notice listed the tentative dates of March 16, 2020 and April 3, 2020, for the ballot mailing, March 8, 2020, for the nominations meeting, and April 24, 2020 for the ballot tally. On March 5, 2020, the American Arbitration Association ("AAA") set a date of March 20, 2020, for the preparation of the ballot packages. On March 8, 2020, the NWIAL conducted its nominations meeting as scheduled. On March 11, 2020, the AAA informed the LEC of the potential for

scheduling disruptions due to the “evolving coronavirus situation.” The AAA indicated, however, that it was moving forward with the election as planned.

On March 13, 2020, the AAA informed the LEC that the AAA recommended having a minimum number of observers at the ballot preparation to protect the health of everyone. The AAA further indicated that if its offices shut down due to the COVID-19 pandemic, the plans for the ballot preparation might have to be changed. That same day the LEC provided a list of observers to the AAA. On March 16, 2020, the LEC informed you that the April 24, 2020 election had been disrupted due to the COVID-19 pandemic. As a result of the pandemic, the AAA suspended the use of its offices and canceled the preparation of the ballot packages scheduled for March 20, 2020. On March 17, 2020, the AAA notified the LEC that it had temporarily closed its Chicago office for a few weeks and presented three options for moving forward with the election scheduled for April 24, 2020 – have the printing company mail the ballots without observers, have AAA staff assemble and mail the ballots from their homes without observers, or delay the election until the U.S. Center for Disease Control and Prevention announced that it would be safe to congregate in groups of 10 or more people.

On or around March 18, 2020, the LEC prepared a notice that was mailed to members informing them that the preparation of the ballots had been delayed due to the Corona virus outbreak and stay-at-home orders issued by the city of Chicago and the state of Illinois. The notice further stated that it would notify members of any attempts to move forward with the election process. On March 31, 2020, the LEC contacted the AAA and inquired about alternatives methods for conducting the election. After not hearing from AAA, the LEC contacted the AAA on June 2, 2020, and inquired about the status of the election.

On June 4, 2020, the AAA informed the LEC that the AAA office would remain closed until October 1, 2020, due to the COVID-19 pandemic. Despite this closure, the AAA and the LEC continued to work to find a suitable venue for the ballot preparation. On June 10, 2020, the AAA informed the LEC that it had been unsuccessful in its attempt to rent a facility for the ballot preparation. On June 22, 2020, the AAA informed the LEC that the city of Chicago planned to reopen and, therefore, the LEC could proceed with setting the dates for the ballot preparation and mailing.

On June 24, 2020, the AAA informed the LEC that the union hall of the Chicago Federation of Musicians union would be available on July 24, 2020 and September 1, 2020. On June 26, 2020, the LEC confirmed the dates of the election with the AAA. By letter dated June 30, 2020, the LEC informed candidates of the tentative date for the 2020 election. On July 6, 2020, the LEC determined that the NWIAL would complete its election on September 1, 2020, and conducted the ballot mailing on July 24, 2020. The election was completed on September 1, 2020, as scheduled.

Clearly, the NWIAL's delay in completing the election by April 24, 2020, resulted from disruptions caused by the COVID-19 pandemic. Such disruptions prevented the NWIAL from timely complying with the requirement of the LMRDA that a local labor organization elect its officers "not less often than once every three years by secret ballot among the members in good standing." 29 U.S.C. § 481(b). However, Section 402(b) of the LMRDA authorizes the Secretary of Labor to bring a civil action against a labor organization only when a violation of the union officer election provisions of the LMRDA "has not been remedied." Section 402(b) of the LMRDA provides,

The Secretary shall investigate [a] complaint and, if he finds probable cause to believe that a violation of this subchapter has occurred and has not been remedied, he shall, within sixty days after the filing of such complaint, bring a civil action against the labor organization as an entity in the district court of the United States in which such labor organization maintains its principal office to set aside the invalid election, if any, and to direct the conduct of an election ... under the supervision of the Secretary and in accordance with the provisions of this subchapter and such rules and regulations as the Secretary may prescribe.

29 U.S.C. § 482(b) (emphasis added).

In this instance, the September 1, 2020 election remedied the NWIAL's delay in completing its election by April 24, 2020. Thus, to the extent that a violation of the LMRDA occurred, there was no violation of the LMRDA that "has not been remedied."

For the reasons set forth above, the Department has concluded that there was no violation of the LMRDA that has not been remedied by the NWIAL during the September 1, 2020 election, and I have closed the file regarding this matter.

Sincerely,



Tracy L. Shanker
Chief, Division of Enforcement

cc: Mark Dimondstein, National President
American Postal Workers Union
1300 L Street, NW
Washington, DC 20005

Jacqueline Engelhart, President
APWU LU 7140
194 W. Lake Street
Elmhurst, IL 60126

Beverly Dankowitz, Associate Solicitor for Civil Rights and Labor-Management