



April 27, 2021



Dear [REDACTED]

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on December 9, 2020, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act ("Act"), 29 U.S.C. §§ 481-483, occurred in connection with the mail ballot election of union officers completed by the American Postal Workers Union ("APWU"), Northwest Illinois Area Local ("NWIAL"), Local 7140, on September 1, 2020.

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

You alleged that the post office box that the union secured in March of 2020 for the return of the voted ballots was changed to a new post office box in July of 2020. Section 401(c) of the Act provides a general mandate that a union provide adequate safeguards to insure a fair election. 29 U.S.C. § 481(c); 29 C.F.R. § 452.110. The investigation disclosed that on March 11, 2020, the American Arbitration Association ("AAA"), a third party election service hired by the union to conduct the election, rented a post office box located at the Amoco United States Postal Service (USPS) facility for the return of the voted ballots. The investigation showed that on July 1, 2020, the AAA rented a post office box at the Cardiss Collins post office after the USPS permanently closed the Amoco post office due to the COVID-19 pandemic and instructed the AAA to secure a new post office box at a different location.

You asserted during the investigation that the Amoco post office box address may have been printed on return ballot envelopes and that the AAA rented the Cardiss Collins post office box so that voted ballots could be routed to both the Amoco and the Cardiss Collins post offices. The investigation disclosed that the AAA only used the Cardiss Collins post office for the election. No voted ballots or other election-related materials were returned to the Amoco post office, which the USPS permanently closed in March of 2020.

In addition, the investigation disclosed that you observed AAA personnel assemble and prepare the ballots for mailing. While observing that process you never mentioned to AAA personnel or any other individuals that you saw the Amoco post office box address printed on return ballot envelopes. Further, during the investigation candidates/observers, including one of your witnesses, who observed AAA personnel assemble and prepare the ballots for mailing did not corroborate your claim concerning the Amoco post office box address being printed on return ballot envelopes. The Act was not violated.

Next, you alleged that the union did not perform a full and complete ballot reconciliation in front of you at the ballot tally in that the AAA failed to count the unused ballots for each craft and all the undeliverable ballots, and did not provide you with a certified list of members who requested duplicate ballots or an affidavit from the printer stating the number of original and duplicate ballots that were printed for each craft. You further alleged that observers were prevented from verifying voter eligibility during the ballot tally because the AAA refused to call out the name of the voter printed on each of the return ballot envelopes.

Section 401(c) of the Act provides a general mandate that a union provide adequate safeguards to insure a fair election. Section 401(e) of the Act requires a union to conduct its election of officers in accordance with its constitution and bylaws insofar as they are not inconsistent with the provisions of the Act. 29 U.S.C. § 481(e); 29 C.F.R. § 452.3. Article 11, Section 6 of the NWIAL Local 7120 constitution delegates to the election committee the authority to adopt rules concerning the election. The investigation revealed that the 2008 Election Committee Rules and Procedures (“election rules”) were applicable to the 2020 election. The union provided a copy of the election rules to you following the March 8, 2020 nominations meeting. The investigation showed that neither the NWIAL Local 7120 constitution nor the election rules required the election committee to reconcile the ballots at the ballot tally or provide you with written documentation regarding duplicate ballot requests or the printed ballots. In fact, the union did not provide such documentation to any candidate or observer. The investigation disclosed, however, that during the ballot mailing process election officials told you the number of ballots ordered from the printer, the number of ballots mailed, and the number of duplicate ballots requested. The Department’s review of the contemporaneous notes you took during that conversation with the election officials reflect information concerning the printed, mailed, and duplicate ballots.

Concerning the ballot reconciliation, the Department’s review of the invoice prepared by the company that printed the ballots indicated that 1,500 ballots were printed for the election. The investigation disclosed that the AAA ordered thirty to fifty extra ballots for each of the eight Local 7140 craft divisions to accommodate members who had

changed crafts or had new home addresses and needed replacement ballots. The printer's invoice, however, did not indicate the number of ballots printed or the number of ballots received by AAA for each of the craft divisions. However, the Department's review of the election records showed that the AAA mailed 1,311 original ballots and 46 duplicate or challenged ballots to members, and that 219 unused ballots were included in the election records, for a total of 1,576 ballots. The review also showed that there were 517 opened return ballot envelopes included in the election records and that one voter had returned an empty ballot envelope that contained no ballot or secret ballot envelope. Further review disclosed that 516 ballots were counted and included in the vote tally. The names printed on the return ballot envelopes for these 516 ballots matched the names crossed off the voter eligibility list during the ballot tally indicating that an eligible voter had returned a ballot.

Regarding the AAA's failure to call out the names of the voters printed on the return ballot envelopes during the ballot count, Section 17 of the election rules provides that the "votes" marked on each ballot must be tallied by teams of three with one member of a team calling out the votes marked on each ballot and the other two members of that team recording such votes on separate tally sheets. However, neither the NWIAL Local 7120 constitution nor the election rules prescribe procedures for counting or processing the return ballot envelopes during the ballot tally. The investigation showed, however, that AAA personnel counted the return ballot envelopes in teams of two. Before opening each return ballot envelope and removing its ballot, one member of a team called out the name of the voter printed on the return ballot envelope and the other member of that team verified the voter's eligibility by locating the voter's name on the voter eligibility list and then crossing the name off the list. The Act was not violated.

In addition, you alleged that the number of votes cast for the offices of clerk craft director 600, clerk craft director 601, and the maintenance craft director were very similar and that the same voter may have cast multiple ballots for these offices. Section 401(c) of the Act provides a general mandate that a union provide adequate safeguards to insure a fair election. The investigation showed that the races for clerk craft director 600 and clerk craft director 601 were printed on the ballot but were unopposed and no votes were cast for those offices. The Department's recount of the votes for maintenance craft director disclosed that the incumbent and opposition candidates received 84 votes and 54 votes, respectively.

The Department's recount of the votes cast for each opposed office found that there were no discrepancies between the recount and the AAA's vote count. In addition, the Department's review of all the voted ballots found that none of them contained distinctive markings or indentations indicating that they had been marked in stacks or on top of one another. Further review showed that there was no evidence that numerous ballots had been marked with the same distinct writing instrument or by the

same voter. There was no evidence of ballot tampering or fraud. The Act was not violated.

You also alleged that the union did not offer candidates the opportunity to proofread the ballots before they were printed. Section 401(c) of the Act provides a general mandate that a union provide adequate safeguards to insure a fair election. Section 401(e) of the Act requires a union to conduct its election of officers in accordance with its constitution and bylaws insofar as they are not inconsistent with the provisions of the Act. 29 C.F.R. § 452.3. The NWIAL Local 7120 constitution and election rules do not require the union to extend any such offer to candidates. However, you stated during the investigation that the AAA permitted you to review the ballots for your own craft before ballots were mailed to members after you requested to do so. The Act was not violated.

You further alleged that fifteen retired members were denied the right to vote when their names were removed from the membership list in July of 2020. Section 401(e) of the Act provides that members in good standing have the right to vote for or otherwise support the candidate or candidates of their choice. 29 U.S.C. § 481(e); 29 C.F.R. §§ 452.84, 93. Article 3, Section 4(b) of the APWU constitution and bylaws provides that retirees who continue to pay full union dues and per capita taxes retain good standing and the right to vote.

During the investigation you stated that the names of retirees were removed from the membership mailing list in July of 2020 based on a July 7, 2020 email from the AAA director to the election committee chairperson. That email states in relevant part, "On Tuesday, July 7, 2020 . . . [a]ttached is the last version of the Master Mailing List from 3-16-20 that is sorted by the ballot type the member will receive. Can you let me know if any changes are needed to this list? If anyone retired, was fired, transferred to a different facility or craft, etc. Also, are any address updates needed? Just let me know what needs to be changed as soon as possible. . . ."

The investigation disclosed that, although the AAA director inquired in the July 7, 2020 email as to whether the master mailing list needed to be updated, the names of approximately 40 Local 7140 members who had retired after the March 8, 2020 voter eligibility cutoff date but before the July 24, 2020 ballot mailing remained on the master mailing list the AAA used to mail the ballots. These retired members had paid full union dues and per capita taxes during the appropriate period and, thus, retained their good standing. They were eligible to vote and were mailed ballots. The Act was not violated.

You alleged that the cost of the election increased from approximately \$20,000 to \$35,000. Even if this allegation were true, this would not be covered by the provisions of Title IV of the LMRDA.

Finally, you challenged the candidacy eligibility of certain candidates in the election. You raised this issue in the complaint you filed with the Department on September 29, 2020. The Department's Statement of Reasons dated February 4, 2021 resolving that complaint concluded that there was no violation of the Act that may have affected the outcome of the election.

For the reasons set forth above, the Department has concluded that there was no violation of the LMRDA that may have affected the outcome of the election and I have closed the file regarding this matter.

Sincerely,



Tracy L. Shanker
Chief, Division of Enforcement

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

Jackie Engelhart, President
American Postal Workers Union - NWIAL Local 7140
194 W Lake Street
Elmhurst, IL 60126

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