



July 26, 2021

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed with the Department of Labor (Department) alleging that a violation of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U.S.C. §§ 481-483, occurred in connection with the election of officers conducted by the Plasterers & Cement Masons Local 630, Honolulu, Hawaii, on March 9, 2020.

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

First, you alleged that the union knew how members voted in the March 9, 2020 election of officers because the ballots were numbered. Section 401(b) of the LMRDA provides that every 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). The Department also found that Local 630 assigned an election identification number to every member and provided a mail ballot to every member residing on islands other than Oahu. However, if a member was a resident of Oahu and requested a ballot, that member received a ballot and had the opportunity to vote. Notably, the Department's investigation found no evidence that the union maintained a list containing members' unique identification members and corresponding ballot numbers.

However, the Department's investigation revealed that during the ballot mailing, election committee members stuffed the alphabetized ballot packages with the ballots in alphabetical order, which allowed for the potential that some ballots could be connected to specific voters. The investigation revealed that Local 630 mailed 143 ballots to members grouped into the following counties: Hilo, Kauai, Kona and Maui. The range of the ballot numbers mailed to each group was recorded. For example, ballots 1100-

1119 were mailed to members with Hilo addresses and ballots 1120-1154 were mailed to members with Kauai addresses.

The Department's review of the election records found that, although there was no list containing members' identities and ballot numbers, it appears that some of the Hilo ballots were placed in numerical order in the ballot packages which were labeled alphabetically by member name. The Department's review revealed that the first ballot mailed to a Hilo member, number 1100, was mailed to the first member listed on the Hilo membership list. According to the voter eligibility list, of the 20 members in Hilo who received a ballot, eight voted. The eight numbered ballots voted by Hilo members correspond with the names of the Hilo members who voted because the Department's investigation found that these eight ballot packages were stuffed in alphabetical and numerical order. Because these eight voted ballots could be connected to the voters, the union violated section 401(b)'s voter secrecy requirement.

The Department examined the membership lists and returned ballots for the other counties (Kauai, Kona, and Maui) and discovered similar patterns that could link voters and voted ballots. The Department's review of the election records found that, collectively, 42 returned ballots could be connected to the voter. As with the Hilo members, the Department found that in the other counties, ballots could be traced to the voters because the Election Committee stuffed the ballot packages in alphabetical and numerical order. Members who lived on Oahu were not mailed a ballot unless they requested one and Local 630 maintained a log of Oahu members who requested a mail ballot. The Department examined the voter and voted ballot lists for Oahu and found no evidence that returned ballots could be connected to the voters. With regard to Oahu, there was no violation of voter secrecy.

In conclusion, the voter secrecy violation could have impacted a total of 42 voted ballots. However, these 42 ballots could not have affected the outcome of the election as no office was decided by 42 votes or less.

Second, you alleged that the election committee chairperson should not have been given keys to the post office boxes because he was an employee of Local 630. Section 401(c) of the LMRDA contains a general mandate that the union must provide adequate safeguards to ensure a fair election. 29 U.S.C. § 481(c). The Department's investigation did not reveal any evidence that the election committee chairperson mishandled the post office boxes, that the post office box key was not secured throughout the election, or that there was any unauthorized opening of the boxes. The Department's records review found no evidence of ballot tampering. The ballots were examined for dissimilar paper, similar ink or similar handwriting, and unusually large bunches of identically voted ballots. No anomalies were found. The Department performed a

reconciliation of the ballots and was able to account for all the ballots printed by Local 630. There was no violation.

Third, you alleged that you were denied the opportunity to have an observer at the undeliverable ballot pick-ups at the post office. Under the provisions of Section 401(c), each candidate must be permitted to have an observer at the polls and at the counting of the ballots. This right encompasses every phase and level of the counting and tallying process. The Department's investigation found that candidates were informed by letter dated June 12, 2020, of the times and dates of the ballot pick-ups. There were two pick-ups scheduled at 12:00 p.m. on June 15, 2020 and June 17, 2020. The investigation revealed that no candidate requested to send an observer and no candidate complained about the pick-up schedule. Local 630 did not receive any undeliverable ballot packages and the Department's record review did not reveal any evidence of ballot pampering. The Department examined the ballots for dissimilar paper, similar ink, similar handwriting, and unusually large bunches of identically voted ballots and detected no anomalies. The Department performed a reconciliation of the ballots and accounted for all the ballots printed by Local 630. There was no violation.

For the reasons set forth above, the Department has concluded that there was no violation of Title IV 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

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