



September 21, 2023



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 original election of officers conducted by the United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), Local 400, on September 29, 2020, and a runoff election conducted on October 6, 2020.

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

You alleged that Local 400 retiree [REDACTED] should not have been allowed to run for the Financial Secretary-Treasurer (FST) position. Section 401(e) of the LMRDA, 29 U.S.C § 481(e), provides that every member in good standing is eligible to be a candidate and to hold office subject to reasonable qualifications uniformly imposed. You asserted that Article 6, Section 19(3), of the UAW Constitution prohibits retirees from accepting nomination for any office that is required to handle grievances or bargaining required by the collective bargaining agreements or local bylaws. The Interpretations Section of Article 6, Section 19 of the UAW Constitution (effective June 2018) states: "Retired members are ineligible to run for any local union position which carries responsibility for grievances or bargaining required by the Collective Bargaining Agreement(s) and/or local union bylaws." The Department's investigation revealed that there is no provision in Local 400's bylaws or collective bargaining agreements that requires the FST to participate in grievances and/or negotiations. The UAW Public Review Board has determined that retirees may hold the FST position at Local 400. This is consistent with the Local's bylaws that state in part, "the president and/or executive officers shall assist in negotiations when requested or when he/she deems it necessary." Had he won the election, [REDACTED] would have been allowed to hold the FST position without participating in negotiations or grievances. There was no violation.

You alleged that former Bridgewater-Warren employees who transferred to another plant and were no longer represented by Local 400 were allowed to vote in the Local 400 election in violation of the bylaws. Section 401(e) of the LMRDA, 29 U.S.C § 481(e), states that every member in good standing has the right to vote. The Department's investigation established that during the election period some members who worked at the Bridgewater-Warren facility were transferred to the Bridgewater-Detroit facility, which is not represented by Local 400. Nevertheless, the date that a member accepts a transfer is not the date when a member's employment or membership status changes. Instead, the investigation revealed that members' employer and union membership status changes when the member reports to work at the new facility. Any member whose name was on the list provided by Bridgewater-Warren that had not yet transferred, was an employee of the company, a member of Local 400, and eligible to vote. The employer's Human Resources Manager confirmed that 69 employees working at Bridgewater-Warren were transferred to Bridgewater-Detroit but were employees of Bridgewater-Warren through October 2. There were no other transfers or reductions in force at the plant during the election period. The investigation determined that none of the members that were transferred voted in the runoff election.

The Department reviewed the membership records that Local 400 used for the election. The review revealed no evidence that Local 400 counted any non-member votes during the initial or runoff elections. One non-member was permitted to vote a challenged ballot during the September 29 election; however, his ballot was properly not counted because he was no longer a member of Local 400 at the time. The 69 members transferred from Bridgewater-Warren to Bridgewater-Detroit were eligible to vote during the original September 29 election because they were employed through October 2, and none of them voted in the runoff on October 6. A review of the 30 employees transferred out of the Romeo Engine Plant (REP) during the election period revealed that no ineligible members were permitted to vote. The 12 members voting in the original election and the 10 voting in the runoff election were eligible to vote because they did not transfer out of REP until November, which was after both the original and runoff elections. There was no violation.

You alleged that the election committee did not report the number of blank and void ballots with the tally results after the original election, and that the union threw one ballot in the trash. Section 401(c) of the LMRDA, requires unions to provide adequate safeguards to ensure a fair election. 29 U.S.C. § 481(c). You admitted that you did not know if anything problematic occurred but believed that failing to report the number of blank and voided ballots was suspicious. The Department's investigation established that the union did not have a requirement to report the number of blank and voided ballots as part of the tally. Chapter 14 of the UAW Guide for Local Union Election Committees states: "Although only valid ballots should be counted in determining the

results of the election, Election Committee members should account for all ballots cast in the election, including unused, sample, challenged, spoiled, and totally void ballots.” The investigation revealed that the union initially threw a voided ballot in the trash but retrieved it when an observer questioned the Election Committee (EC) about it. The Department’s investigation also established that the EC hired a printing company, Election Source, to prepare and print the various ballots for members working at Romeo Engine Plant, Yanfeng, and Bridgewater-Warren, as well as retirees. The EC prepared and printed the ballots for all of the other units represented by Local 400. The Department performed a ballot reconciliation and recount during the investigation. There was no showing of fraud. There was also no indication of any counting or reconciliation error that could have changed the results of the election. 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,



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Chief, Division of Enforcement

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