



September 30, 2015

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is provided in response to the complaint you filed with the Department of Labor on January 30, 2015, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the election of union officers for the National Postal Mail Handlers Association, Local 308 (also known as NMPHU Local 308 or NMPHU) conducted on February 22, 2014.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded that there is insufficient evidence of any violation that may have affected the outcome of the election. Each allegation is addressed in turn.

You allege that [REDACTED] was improperly permitted to run in the local election for the positions of Wilmington Branch President and Delaware State Executive Board Member on the basis that he was not a member in good standing at the time he was nominated. Section 401(e) of the LMRDA provides that any member in good standing will be eligible to be a candidate for election and to hold office in a local union. According to Article V, Section 1 of the NPMHU Constitution, in order to be eligible to run for office, a member must be in continuous good standing in the local for a period of two years immediately prior to nominations and current in dues payment.

The investigation revealed that due to employer error, [REDACTED] did not have dues deducted for one pay period during the two years prior to his nomination. Section 401(e) provides that no member whose dues are authorized to be withheld by an employer may be declared ineligible to run for office because of alleged delay or default in the payment of dues. After learning of the missed dues payment, [REDACTED] submitted a personal check to cover the amount of the missed dues. Accordingly, [REDACTED] was properly determined to be a member in good standing in accordance with section 401(e) and permitted to run in the election. Therefore, with respect to this allegation, there was no violation.

You also allege that union member [REDACTED] used employer equipment and campaigned on employer time to promote the candidacy of [REDACTED] in the February 2014 election. Section 401(g) of the LMRDA prohibits the use of employer equipment or employer funds to promote the candidacy of any person in a union election. However, if it is shown that the employee is on a legitimate work assignment and the campaign activity is only incidental to the performance of task and does not interfere with its performance, there is no violation of the 401(g) prohibition. U.S. Postal Service campaign rules state that employees may campaign on non-work time in non-work areas. Furthermore, the rules states that employees may "discuss election matters on the workroom floor if talking is normally permitted while employees are working; however, employees must continue working and may not disrupt the work of other employees."

The investigation revealed that at least seven employees heard [REDACTED] make statements in support of [REDACTED] candidacy to employees who were on work time on the workroom floor or heard [REDACTED] making campaign statements while using a tow motor on the workroom floor. While there is credible evidence that [REDACTED] did make some statements in support of [REDACTED] candidacy, the evidence is inconclusive as to whether [REDACTED] activities rise to the level of campaign activity that is disruptive to the workplace or that is more than merely incidental to the workplace performance. The investigation did not reveal complaints from either candidates or employees that [REDACTED] stopped work for prolonged periods of time to engage in improper campaign activity. Therefore, the facts do not support a finding by a preponderance of the evidence that [REDACTED] engaged in prohibited campaigning. There was no violation of the Act.

For the reasons set forth above, there is insufficient evidence that any violation may have occurred that affected the outcome of the election. Accordingly, the office has closed the file on this matter.

Sincerely,

Sharon Hanley  
Chief, Division of Enforcement

cc: John Hegarty, National President  
National Postal Mail Handlers Union  
1101 Connecticut Avenue, NW, Suite 500  
Washington, DC 20036

John Gibson, President  
Mail Handlers Local 308  
117 Neshaminy Road  
Croydon, PA 19021

Bruce Lerner  
NPMHU General Counsel  
Bredhoff & Kaiser, PLLC  
805 Fifteenth Street NW  
Washington, DC 20005

Christopher B. Wilkinson, Associate Solicitor  
Civil Rights and Labor-Management Division