



June 28, 2018

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on September 1, 2017, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA), occurred in connection with the mail ballot election of union officers conducted by the American Postal Workers Union, California Area Local, Local 4635, on April 28, 2017.

The Department of Labor 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.

You alleged that union members either did not receive a ballot in the mail or that they received it the day before or the day of the ballot counting. Section 401(e) of the LMRDA provides that a member in good standing has the right to vote for or otherwise support the candidates of the member's choice. 29 C.F.R. §§ 452.84-85. On April 3, 2017, the American Arbitration Association (AAA) mailed ballots to the 1,749 Local 4635 members who were in good standing as of February 28, 2017. The combined nominations and election notice was mailed to the last known home address of each member and was posted on union bulletin boards located at the worksites before the January 29, 2017 nominations meeting. The notice reminded members to forward any updated information concerning their home addresses to the election committee's email address or to the local's office by mail. Prior to the ballot mailing, Local 4365 took reasonable steps to ensure that the mailing list was up to date. The investigation showed that, at the time of the ballot mailing, the mailing list was 96 to 97 percent accurate. As a result, only 58 ballot packages were returned as undeliverable during the election process. Local 4635 was able to obtain better addresses for approximately 30 of the undeliverable ballot packages and duplicate ballots were mailed to the new addresses. Of these 30 members, four voted in the election. Under these circumstances, the efforts Local 4635 took to ensure that members were mailed ballots and afforded an opportunity to vote were reasonable and consistent with the requirements of the LMRDA. The LMRDA was not violated.

You also alleged that the election committee did not afford members an opportunity to vote by failing to mail them duplicate ballots or by delaying the mailing of these ballots. As noted above, AAA mailed a combined notice of election and notice of nominations to the last known home address of each member prior to the January 29, 2017 nominations meeting. The notice provided members with specific instructions on how to obtain duplicate ballots if members did not receive ballots in the mail. These instructions informed members that a request for a duplicate ballot must be made to the Local 4635 election committee by calling the election committee at the phone number provided in the notice or by transmitting the request to the election committee's email address, which was provided.

You claimed that members were unable to request duplicate ballots by phone because the telephone number to which requests were directed was not working prior to or during the election. The investigation disclosed that, as the incumbent secretary treasurer of the local, you were solely responsible for ensuring that the bill for the phone was paid in a timely manner and that the phone was operational prior to and during the election. In any event, the election chair stated during the investigation that he monitored the phone during the election process and that he was not aware of any problems or issues with it.

You further alleged that duplicate ballot requests were forwarded to the election committee's email address but the members did not receive duplicate ballots in the mail. The investigation disclosed that one candidate transmitted several duplicate ballot requests by email, as follows:

- By emails dated April 14 and 18, 2017, the candidate transmitted the names and duplicate ballot requests of nine members to the election committee's email address. Of these, six were eligible voters and were mailed duplicate ballots; one of these members voted.
- By email dated April 24, 2017, the candidate transmitted an email containing the duplicate ballot requests of 31 members to the wrong email address. As a result, the election committee did not receive these requests, and the requests were not processed, through no fault of the union.
- By emails dated April 14, 18, and 24, 2017, the candidate claimed to have transmitted the duplicate ballot requests of 36 other members to the election committee's email address for processing. Of these, 33 were eligible voters. The Department's review of the election records showed that duplicate ballot requests for 7 of these 33 members were received at the election committee's email address. These requests were promptly processed by the election committee and duplicate ballots were mailed to these 7 eligible voters within 72 hours of the committee's receipt of the requests. The investigation also showed

that duplicate ballot requests for 8 of the 33 members were not transmitted to the election committee's email address, but were transmitted to a different email address. As a result, the election committee did not receive these requests, and the requests were not processed, through no fault of the union. Finally, the investigation did not disclose any evidence supporting your claim that the candidate transmitted the duplicate ballot requests for the remaining 18 eligible members to the election committee's email address for processing. Neither you nor the candidate who allegedly forwarded the requests to the election committee was able to provide any email messages transmitting the requests to the election committee's email address. Further, the election committee has no record of receiving these transmissions.

The LMRDA was not violated.

For the reasons set forth above, it is concluded that there was no violation of section 401 of the LMRDA that may have affected the outcome of the election, and I have closed the file in this matter.

Sincerely,



Sharon Hanley  
Chief, Division of Enforcement

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

David Gordillo, President  
APWU Local 4635  
129 East A Street  
Upland, California 91786

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