



November 2, 2018

[REDACTED] 0

Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed on January 24, 2018, alleging that a violation of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U.S.C. §§ 481-484, occurred in connection with the election of officers conducted by the National Postal Mail Handlers Union (NPMHU), Local 303 (Local or Union), AFL-CIO, on October 3, 2017.

The Department of Labor (Department) 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 campaign literature was improperly posted on the official union bulletin boards at the Anaheim and the Los Angeles Network Distribution Center (NDC). The Department's investigation confirmed that campaign literature was placed on the union's locked bulletin boards at the facilities that you have identified, plus one other facility, the Santa Ana Production and Distribution Centers (P&DC). To the extent that the posting of literature on the union's locked bulletin boards at both Santa Ana and Anaheim facilities constituted a violation of the LMRDA's prohibition on the use of union resources to promote one candidate over another, there was no effect on the outcome of the election. Both you and [REDACTED], your opponent, had an equal opportunity to post campaign literature on the union's locked bulletin boards at both facilities. There was no disparity in the use of the union's locked bulletin boards to post campaign literature. With regard to the remaining facility, the investigation revealed that the material placed in the union bulletin board was not campaign literature but a farewell letter from a member who was not a candidate in the election.

You alleged that candidates removed opponents' properly placed campaign material. The investigation established that candidates from both campaigns removed each other's campaign literature in the designated campaigning areas, the breakroom and the area near the vending machines. One candidate admitted tearing down your campaign flyers at the LA P&DC because someone posted them over his campaign material. Consequently, he tore down his own flyers because they were defaced. Inasmuch as the

investigation established that candidates from both campaigns and their supporters removed each other's campaign material, there was no violation of the LMRDA affecting the outcome of the election.

You alleged that candidates actively campaigned while on duty to members who were also on duty. In particular, you alleged that candidate [REDACTED] visited the LA P&DC and LA NDC on a daily basis during union time to campaign for candidate Cowan. Section 401(g) of the LMRDA prohibits the use of union funds to promote the candidacy of any person in an election subject to Title IV of the LMRDA. Unless restricted by constitutional provisions to the contrary, union officers and employees retain their rights as members to participate in the affairs of the union, including campaigning activities on behalf of either faction in an election. 29 CFR § 452.76. However, campaigning must not involve the expenditure of funds in violation of Section 401(g). Accordingly, officers and employees may not campaign on time that is paid for by the union, nor use union funds, facilities, equipment, or stationery to assist them in campaigning. Campaigning incidental to regular union business would not be a violation. 29 CFR § 452.76.

You did not present and the investigation did not reveal evidence establishing that [REDACTED] campaigned on union time or that his campaigning to members on duty involved prohibited use of employer funds. [REDACTED] denied campaigning on union time at either facility. He asserts that when he was present at facilities during working hours of the campaign period, he was on official union business. His duties involved delivering checks to shop stewards and the branch presidents, leading orientations for new employees, handling grievances, or meetings with management. Campaigning incidental to legitimate union business does not violate the LMRDA. [REDACTED] further stated that when he did campaign it was not on union time. He stated that during the campaign period, he campaigned for approximately 5 hours each day before 8:00 a.m. and another five hours each day after 4:00 p.m. Election Judge [REDACTED] stated that he observed [REDACTED] in the union office 8 hours a day during the election period and did not observe him campaigning while on union duty to members who were also on duty. There was no evidence substantiating your allegation.

You next alleged that a candidate solicited ballots from other members. You provided the Department with two signed statements from members who work at LA NDC who alleged that candidate [REDACTED] approached them on numerous occasions to solicit their ballots. However, your witnesses refused to speak to our investigators. The investigation did not reveal that these members or others actually gave their ballots to the candidate. Consequently, our investigation did not reveal evidence substantiating your allegation. There was no violation.

You further alleged that a candidate was improperly allowed to use the election judges' post office box for undeliverable campaign mailings. Section 401(g) prohibits the use of union funds to promote the candidacy of any person in an election subject to Title IV of the LMRDA. The investigation revealed that Election [REDACTED] stated that candidates were verbally told that they could use their own personal address or the election judges' post office box for any returned undeliverable mail. [REDACTED] further stated that the election committee did not deny any candidate the opportunity to use the election judges' post office box, and you did not ask to use their post office box. However, several of the candidates stated that they did not recall being told that candidates could use the election judges' post office box. Nevertheless, these candidates rented their own post office box. There was no violation.

You alleged that a member wore and distributed campaign material to other members while being paid by the union. The investigation established that while former Anaheim Branch President [REDACTED] wore [REDACTED] campaign t-shirts, the evidence revealed that you wore and distributed your own campaign t-shirt. Anaheim plant manager [REDACTED] stated that mail handlers are permitted to wear campaign t-shirts and buttons while working. 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,

[REDACTED]

Sharon Hanley, Chief
Division of Enforcement

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