



April 16, 2009

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed with the Department of Labor on January 26, 2009. In the complaint, you alleged that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (Act), 29 U.S.C. §§ 481-484, occurred in connection with the election of officers conducted by the National Postal Mail Handlers Union, Local 303, on September 26, 2008.

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 specific allegations, that there was no violation of the Act. Following is an explanation of that finding.

You alleged that the election judges' decision to afford all candidates a free campaign mailing violated the National constitution, the local constitution and the Act. Section 401(e) of the Act, 29 U.S.C. § 481(e), requires a union to conduct an election of union officers in accordance with its constitution and bylaws. The investigation disclosed that neither of the constitutions prohibits such mailings. Further, although section 401(g) of the Act, 29 U.S.C. § 481(g), prohibits the use of union funds to promote the candidacy of a person, this provision was not intended to and does not prohibit a union from assuming the cost of distributing to the membership campaign literature submitted to the union by candidates on an equal basis. *See* 29 C.F.R. § 452.73. Thus, no violation occurred when the union afforded all candidates the opportunity to have a campaign mailing at the union's expense. The union constitutions and the Act were not violated.

You also alleged that the incumbent president used the union's credit card to rent a car, and that he used the car to campaign. Section 401(g) of the Act, 29 U.S.C. § 481(g), prohibits union financed campaigns. Thus, candidates may not use union property or other things of value to assist them in campaigning unless such assistance is afforded to

all candidates. The investigation showed that the incumbent president used the union's credit card to rent a car during the election period. However, the incumbent president denied using the rental car to campaign for union office; he stated that when campaigning he used a friend's car, public transportation or a personal car belonging to a candidate for vice president. The investigation did not disclose the name of anyone who saw the rental car parked outside a postal facility while the incumbent president was at that facility campaigning. Nor did the investigation disclose the name of anyone who witnessed the incumbent president campaigning while he was inside the rental car. Thus, the evidence does not provide an adequate basis for finding probable cause to believe that the Act was violated.

For the reasons set forth above, it is concluded that no violation of the Act occurred. Therefore, I have closed the file on this matter.

Sincerely,

Cynthia M. Downing
Chief, Division of Enforcement

cc: John F. Hegarty, National President
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