



September 18, 2020

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to your April 8, 2020 complaint to the Department of Labor (Department) alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the election of officers of Local Union 100 (local or Local 100), International Brotherhood of Teamsters (National), conducted on December 19, 2019.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department concluded that there were no violations that may have affected the outcome of the election.

You alleged [REDACTED], while being paid to perform work for United Parcel Service (UPS), campaigned on December 7, 2019, by posting campaign messages on your Facebook campaign site. Section 401(g) provides, among other things, that no monies of an employer shall be contributed or applied to promote the candidacy of any person in an election subject Title IV. 29 U.S.C. § 481(g). [REDACTED] was a member of a challenger slate called the "Stand Up Slate" (SUS), which won every office. The Department's investigation disclosed that [REDACTED] was on leave on December 7, 2019. Consequently, he was not on time paid for by his employer and was free to engage in campaign activity, including posting on your campaign Facebook page. There was no violation.

In a related allegation, you claimed member [REDACTED] witnessed two SUS candidates, [REDACTED], make social media posts and telephone calls to slate members to discuss the election while working at the employer's premises at UPS. Further, you believed UPS was aware of these violations but "turned a blind eye." Section 401(g) provides, among other things, that no monies of an employer shall be contributed or applied to promote the candidacy of any person in an election subject Title IV. This prohibition against the use of employer money includes any costs incurred by an employer in order to support the candidacy of any individual in an

election. 29 C.F.R. § 452.78. The investigation disclosed no evidence to support your allegations. Your witness denied seeing any candidate, including [REDACTED], campaigning at the UPS facility. Further, the investigation did not disclose any evidence that UPS had knowledge of or permitted employees to campaign at its premises. There was no violation.

You alleged that [REDACTED], a member of your Teamsters United slate and a UPS employee, advised you that many UPS package drivers did not receive ballots. Your allegation is based on your belief that the local did not send ballots to part-time members. Section 401(e) provides, in relevant part, that every member in good standing shall be eligible to vote. 29 U.S.C. § 481(e). Section 19(E)(4) of the local bylaws provides in relevant part that, to be eligible to vote in the election, a member must have his dues paid up through the month prior to the month in which the election is held and must still be active on the day the election is held. The International Constitution reiterates that requirement at Art. XXII.

The Department's investigations disclosed that Local 100 mailed combined nominations/election notices to 4,238 members and mailed ballot packages to 4,548 members, including UPS members. Included in that mailing were full time and part time workers – the local and International do not differentiate between part-time and full-time members. The Department's review of the election records disclosed that 111 return ballot packages were returned for bad addresses, which constituted approximately 2% of the mailed ballot packages.

The Department's review of the check-off list of new hires disclosed that two new UPS members, [REDACTED], had completed payment of their initiation fee before the election and were eligible to vote but were not mailed ballots. Neither of them voted in the election. The local's failure to mail these eligible members a ballot package violated Section 401(e) by denying them the right to vote. However, this violation had no effect on the election because all offices were won by margins exceeding two votes. In addition, the records review disclosed no evidence that other eligible UPS members were not mailed a ballot package. There was no violation that may have affected the outcome of the election.

You also alleged that the local, under the direction of former Local President [REDACTED] and former Local Secretary-Treasurer [REDACTED], directed the administrative staff to not mail ballots to all members of Zenith where you had the broadest support. You alleged that this directive was motivated by racial bias but you provided no evidence in support of your statement. Section 401(e) provides that every member in good standing shall be eligible to vote. 29 U.S.C. § 481(e). More specifically, Section 401(e) prohibits the disenfranchisement of members based on race. See 29 C.F.R. § 452.46 (unions may not limit eligibility for office to persons of a particular race, color,

ethnic origin, among other protections). The local's administrative staff denied this allegation unequivocally. Your witnesses provided the names of several members who allegedly did not receive a ballot. The Department's review of the mailing list showed that these members - [REDACTED], and [REDACTED] - were marked as having been mailed a ballot. Both [REDACTED] voted. [REDACTED] was mailed a duplicate ballot but did not vote. Further, the Department reviewed employer records, membership records, and the election records. Zenith reported 49 members whose employment was terminated and were thus ineligible to vote. The local mailed a ballot to all eligible members at Zenith. There was no violation.

Finally, you alleged that [REDACTED] informed you that incumbent Business Agent [REDACTED] intimidated a member when that member made it known he intended to vote for Whaley. Section 401(e) provides, in relevant part, that every member in good standing shall be eligible to vote without being subject to improper interference, reprisal of any kind by the union conducting the election or any officer or member of the union. 29 C.F.R. § 452.105. The investigation established that member [REDACTED] and [REDACTED] crossed paths shortly after [REDACTED] picked up a ballot from the union hall. Later that day, [REDACTED] called [REDACTED] to inquire about whether anything was wrong ([REDACTED] previously worked on a grievance that resulted in [REDACTED] being re-hired). [REDACTED] stated he called [REDACTED] out of concern that [REDACTED] may have again lost his job. [REDACTED] was reassured when [REDACTED] explained he had picked up a ballot and intended to vote for [REDACTED]. [REDACTED] stated that he did not intimidate or threaten [REDACTED] at any time during the brief conversation. [REDACTED] failed to make himself available for an interview during the Department's investigation. As such, there is insufficient evidence to find a violation of the Act.

For the reasons set forth above, the Department has concluded that no violation of the LMRDA occurred, and I have closed the file in this matter.

Sincerely,

[REDACTED]

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