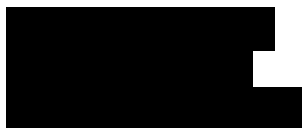




November 18, 2020



Dear [REDACTED]:

This Statement of Reasons is in response to your complaint to the Department of Labor (Department), received on February 25, 2020, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the November 17, 2019, mail ballot election of union officers held by Local 263, Greater Smoky Mountain Area (Local), American Postal Workers Union (APWU).

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 first alleged that union officers who were candidates in the election hand-delivered duplicate replacement ballots to members who requested them. Section 401(c) of the LMRDA requires unions to provide “[a]dequate safeguards to insure a fair election.” 29 U.S.C. § 481(e). Those safeguards include a general rule of fairness that applies to every aspect of the election process. 29 C.F.R. § 452.110. The LMRDA does not prohibit the hand-delivery of blank replacement ballot packages to members as long as adequate safeguards are provided, and the secrecy of the ballot is preserved. 29 C.F.R. § 452.115 (any method that actually provides each eligible voter with one blank ballot would be in conformance with the law). The Department’s investigation found that a union officer in a contested race handed out at least one, but no more than three, blank ballot packages. The lowest margin in the election was 40 votes, however. Therefore, while it was a violation for a union officer in a contested race to hand out blank ballot packages, the limited number of ballots handed out did not impact the outcome of the election.

You next alleged that the mailing list used by the union contained incorrect mailing addresses resulting in members not receiving ballots. Section 401(c) of the LMRDA gives members “the right to vote” in union elections. 29 U.S.C. § 481(e). Unions must therefore provide members with a reasonable opportunity to vote. 29 C.F.R. § 452.94. The Department’s investigation determined that out of 451 members, there were 9

undeliverable ballot packages that were not resolved after the union took reasonable steps to provide duplicate ballots to those whose ballot packages were returned undelivered. There was no violation.

You further alleged that candidates were denied the right to have an observer at the collection of the ballots and that the ballots were picked up from the Post Office Box prior to the date of the count. Section 401(c) of the LMRDA requires unions to provide “adequate safeguards to insure a fair election, including the right of any candidate to have an observer at the polls and at the counting of the ballots.” 29 U.S.C. §481(e). The Department’s investigation included a reconciliation of the ballots, as well as interviews with you, election committee members, and other witnesses. You did not allege nor was there evidence of tampering with the ballots. The election committee member responsible for collecting the ballots was not a candidate. Regarding observers, you alleged that neither you nor the other candidates were aware that you could observe the ballot collection. Your understanding was that the ballot collection was to occur on November 15, 2019, however you were unaware that the ballots were picked up at intervals throughout the balloting period. No candidates, including you, requested the right to observe the ballot collection and therefore no one was denied that right. There was no violation regarding observers.

To the extent there was an adequate safeguards violation regarding the officer who handed a limited number of ballots to voters, the investigation found no evidence of ballot tampering or fraud. Further, the number of ballots distributed by this officer was lower than the margins of victory in all of the contested races. Therefore, any such adequate safeguards violation could not have affected the outcome of the election.

Next, you alleged that the Local’s President handed out t-shirts to members who are veterans on Veterans Day. Section 401(g) of the LMRDA prohibits any moneys received by the union to “be contributed or applied to promote the candidacy of any person in an election.” 29 U.S.C. 481(e). The Department’s investigation revealed that in December 2018 the Local passed a motion to provide veterans t-shirts in 2019. In April 2019, the union approved the use of union funds for the t-shirts. While the shirts were handed out during the ballot period, the Local provided t-shirts to all members and the investigation did not find evidence that campaign statements were made by the incumbents when the shirts were distributed. There was no violation.

Finally, your allegations regarding conduct not covered by the LMRDA were not investigated. For the reasons set forth above, it is concluded that no violation of the LMRDA occurred that may have affected the outcome of the election. Accordingly, our office has closed the file on this matter.

Sincerely,



Tracy L. Shanker
Chief, Division of Enforcement

cc: Chris Johnson, President
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