



November 9, 2020

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on July 29, 2020, alleging that a violation of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the May 30, 2020 election of officers conducted by Local 185 of the Laborers International Union of North America.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded that, with respect to each of your specific allegations, no violation occurred which may have affected the outcome of the election.

You alleged that Local 185 violated sections 401(c) and (g) of the LMRDA by giving incumbents access to an employer list with locations, which the incumbents used to campaign on union time. Section 401(c) prohibits discriminatory treatment with respect to the use of membership lists. 29 U.S.C. § 481(c). Section 401(g) prohibits campaigning on union time. 29 U.S.C. § 481(g). You alleged that you were denied access to an employer list with locations that the incumbent candidates used to campaign. However, the investigation established that no such list exists. You were instead offered the opportunity to inspect the membership list, but you declined to do so. Furthermore, the investigation did not find evidence that the incumbents campaigned while on union time. Accordingly, no violation occurred that affected the outcome of the election.

You also alleged that Local 185 violated section 401(e) of the LMRDA by denying eleven members the right to vote even though they paid delinquent dues after the election period commenced on May 1, 2020. Section 401(e) provides that every member in good standing shall have the right to vote in officer elections. 29 U.S.C. § 481(e). The investigation determined that under union rules, members were in good standing only if they paid delinquent dues by May 1, 2020, because Local 185 had to generate an accurate mailing list to transmit ballots by May 14, 2020. Therefore, any member who

did not pay dues by May 1, 2020 was not eligible to cast a ballot in the May election. Additionally, you were not able to provide the names of the eleven members you claim were denied the right to vote. Accordingly, no violation occurred that affected the outcome of the election.

You also alleged that Local 185 denied seventeen members the right to vote in violation of section 401(e) of the LMRDA by failing to provide replacement ballots. The investigation established that you contacted Election Committee Chair Pete Galvan to request replacement ballots on behalf of supporters who did not receive their ballots in the mail. Mr. Galvan initially instructed you to provide him with the names of those who needed a replacement ballot. However, this was not the correct procedure for processing replacement ballots. Upon realizing the error, Mr. Galvan contacted you to advise that each member was required to request his or her own replacement ballot. The Department's investigation established that fifteen members requested replacement ballots, and that Local 185 mailed replacement ballots to all fifteen members. You would not provide the Department with the names of the seventeen members you allege were denied replacement ballots. Accordingly, no violation occurred that affected the outcome of the election.

You also alleged that Local 185 violated section 401(c) of the LMRDA because your observer was unable to view the ballot tally due to the distance between the observer seating section and the ballot counting area. Section 401(c) protects the right of any candidate to have an observer at the polls and at the counting of ballots. The investigation established that observers were able to view the entire ballot process and that no one objected that they were unable to see. Your observer, [REDACTED], told Department investigators, "I could see quite a bit." Finally, you conceded to investigators that "I got nothing on this issue." Accordingly, no violation occurred that affected the outcome of the election.

You also alleged that Local 185 violated section 401(c) by not providing information on observer opportunities other than the ballot tally. The investigation found that the election guidelines listed observer opportunities, but that no one asked for additional details. The investigation also established that your slate knew of the opportunities, but collectively decided not to attend. Accordingly, no violation occurred that affected the outcome of the election.

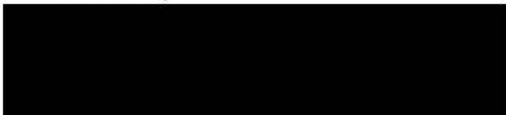
You also alleged that Local 185 failed to provide adequate safeguards to ensure a fair election as required by section 401(c) of the LMRDA. 29 U.S.C. § 481(c). Specifically, you alleged that Local 185 should have reserved a keyless post office box for returned ballots rather than a post office box with keys. The investigation found that Local 185 was not required to use a keyless post office box and that no one accessed the box during the election. Furthermore, the keys were rendered useless because, due to the

volume of ballots received, the post office did not use the box and instead secured the mail behind the customer service counter. Accordingly, no violation occurred that affected the outcome of the election.

You also alleged that Local 185 failed to provide adequate safeguards to ensure a fair election by improperly counting ballots and permitting ineligible members to vote. Specifically, you alleged that the election committee did not use a current eligibility list to check if members who returned a ballot remained in good standing at the time ballots were counted. However, the investigation determined that Local 185 used a membership list that was valid as of May 1, 2020 to mail the ballots. Those members who were in good standing on May 1, 2020 remained so for the entire month, including on May 30, 2020 when the ballots were tallied. Accordingly, there was no need to verify member eligibility prior to counting the ballots. Therefore, no violation occurred that affected the outcome of the election.

For the reasons set forth above, the Department of Labor concludes that there was no violation of the LMRDA that may have affected the outcome of the election. Accordingly, I have closed the file on this matter.

Sincerely,



Tracy L. Shanker, Chief
Division of Enforcement

cc: Terry O'Sullivan, General President
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