



March 11, 2024



Dear [REDACTED]:

This Statement of Reasons is in response to your September 23, 2022 complaint to the Department of Labor, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), occurred in connection with the election of union officers conducted on July 30, 2022, by Local 300, Operative Plasterers' and Cement Masons' International Association (OPCMIA).

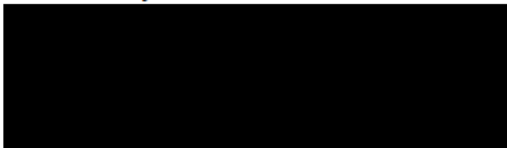
The Department of Labor (Department) conducted an investigation of your allegations. As a result of the investigation, the Department concluded that there were no violations that may have affected the outcome of the election.

You alleged that Local 300 failed to provide adequate safeguards to ensure a fair election and failed to conduct its election by secret ballot, as required by section 401(b) and 401(c) of the LMRDA. 29 U.S.C. §§ 481(b), (c). You specifically alleged that International Vice President (IVP) Chester Murphy observed members voting their ballots at the Modesto polling site. You further alleged that Murphy approached and spoke to members as they were casting ballots at the Modesto polling site. The Department's investigation revealed that IVP Murphy was an observer at the Modesto polling site. As part of his responsibilities, he responded to questions and explained to members how to properly cast their ballots. During the investigation, Murphy explained that while observing the Modesto polling place, he was seated approximately 7 to 8 feet from the ballot box and could not see how any member voted. While seated, Murphy would remind members to separate the "ballot stub" from the ballot so that Local 300 could confirm voter eligibility and also maintain ballot secrecy. Murphy denied approaching members to observe how they voted their ballots. There was no evidence to support this allegation that voter secrecy or adequate safeguards were violated. Further, even if there were a violation, the Department determined that a total of 60 ballots were cast at the Modesto polling place. The smallest margin of victory in this election was 178 votes; accordingly, the 60 ballots cast at Modesto could not have impacted the outcome of the election.

You further alleged that Local 300 failed to provide adequate safeguards to ensure a fair election, as required by section 401(c), because IVP Murphy intimidated and harassed voters at the Modesto polling place. *See* 29 U.S.C. § 481(c). You specifically alleged that IVP Murphy used “scare tactics” and gave members “mean looks” while he served as an observer at the Modesto polling place in order to dissuade members from voting for you. During the investigation, you were unable to provide names of any member who was threatened, intimidated, or otherwise interfered with by Murphy. In his interview with the Department, IVP Murphy denied intimidating or threatening any member at the Modesto polling place. There was no evidence to substantiate your allegation. There is no violation. Further, as discussed above, the Department determined that a total of 60 ballots were cast at the Modesto polling place. The smallest margin of victory in this election was 178 votes and your election was decided by 213 votes; accordingly, the 60 ballots cast at Modesto could not have impacted the outcome of the election.

It is concluded that no violation of the LMRDA occurred that could have affected the outcome of the election. Accordingly, the office has closed the file in this matter.


Sincerely,



Tracy L. Shanker
Chief, Division of Enforcement

cc: Daniel E. Stephano, General President
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