



April 27, 2020



Dear 

This Statement of Reasons is in response to the complaint you filed with the Department of Labor (Department) on April 9, 2019, alleging that a violation of the election provisions of the Labor Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U.S.C. § 481-483, occurred in connection with an officer election held on December 3, 2018, by the American Postal Workers Union, Local 295 (Local or Local 295) in Detroit, Michigan.

The Department conducted an investigation of your allegations. As a result of our investigation, the Department has concluded, with respect to your allegations, that there was no violation of the LMRDA that may have affected the outcome of the election.

You alleged that Local 295 failed to provide proper notice of election because the election notice was not mailed to members' last known home addresses with the ballots, and the mailing did not include procedures on how to request a duplicate ballot. Section 401(e) of the LMRDA mandates that an election required to be held by secret ballot must be preceded by a notice of election mailed to each member at his last known address not less than 15 days prior to the election. 29 U.S.C. § 481(e).

However, if the election is conducted by mail and no separate notice is mailed to the members, the ballots must be mailed to the members no later than 15 days prior to the date when they must be mailed back in order to be counted. 29 C.F.R. § 452.102. The investigation revealed that the ballots served as notice of election and that this was the Local's past practice. The ballots were printed by Unimatic, the company hired to conduct the election. On November 15, 2018, 18 days prior to the election, ABC Mailing mailed 1,577 ballot packages for the December 3, 2018 election. The ballot was identified as the APWU Detroit District Area Local Official ballot, pursuant to the local constitution, and listed the positions as well as the date and time by which the ballots

must be received. The return envelope listed the place to which ballots were to be returned. With regard to your allegation that there was no information on how to request a duplicate ballot, the ballot instructions indicated: "If you make a mistake, you may request a new ballot if necessary." Further, as discussed below, the Local posted notices detailing the duplicate ballot request process at all of the union's facilities. There was no violation.

You alleged that members were denied the right to vote when the election committee did not post the notice regarding duplicate ballots until November 27, 2018, which was not enough time to vote and return a ballot. Also, you alleged that the election committee was unavailable when members called to request a duplicate ballot. The investigation revealed that a notice regarding the duplicate ballot request process was posted in all facilities on November 26 and 27, 2018. An election committee member was at the union hall each day during the election period, and the Unimatic Company mailed duplicate ballots the day after each request. There were a total of 55 duplicate ballot requests, and Unimatic mailed 55 duplicate ballots. The investigation found that half of the duplicate ballot requests came in prior to the posting of the duplicate ballots notice on November 26, 2018. There was no evidence that members sought duplicate ballots but did not receive them in time to vote in the election. There was no violation.

You alleged that members were denied the right to vote when members had not received their ballots by November 30, 2018. You provided a list of 19 members and also identified [REDACTED] as a member who did not get a ballot. The investigation revealed that each of these 19 members was mailed a ballot in the election. Furthermore, the witness named by you as not receiving a ballot [REDACTED] informed the Department that she received her ballot, but chose not to vote. As far as updating the list, the Local advised the Department that they updated their membership list by posting a change of address slip in each facility and by putting a similar notice in the quarterly newsletter. The Local used the National Change of Address (NCOA) service for the union newsletter and, while they did not get notification of the updated addresses, the undeliverable newsletters were returned to the union. The union secretary explained that she re-mailed the undeliverable newsletters to the members to determine if the mail would be returned to the union. If the newsletter was again returned undeliverable, the union secretary researched these names in the APWU National database for a better address for the members, updated the address for the members, and if available, mailed ballots to this new address.

In addition to the processes discussed above, the Local demonstrated that it took reasonable steps to update and maintain an accurate membership list by updating 26 addresses immediately prior to the officer election. Specifically, the Local intended to conduct a constitutional amendment vote just prior to the union officer election. This membership vote, however, was cancelled for several reasons, one of which included

members not receiving ballots. During this constitutional vote, there were 37 undeliverable ballots, and the union was able to update 26 of these addresses prior to the union officer election. Given the investigative findings related to the 19 members identified in your complaint and the findings related to the Local's overall process for updating and maintaining an accurate membership list, there was no violation.

You alleged that the union failed to properly count ballots when the ballots collected from the Pontiac, Michigan post office totaled 530, but only 511 ballots were included in the final tally, resulting in 19 unaccounted ballots. The Department's investigation revealed that you were at the post office when the ballots were collected and that after the collection, you followed the delivery of the ballots to the union hall where you observed the ballot tally until leaving for lunch. While you were at lunch, you missed an announcement at the tally regarding the ballot count. This announcement was given to you later by Election Committee member [REDACTED] who informed you that Unimatic mistakenly counted three stacks of ten ballots, when, in fact, there were three stacks of five ballots. A review of [REDACTED] election log book noted the number 530, but it was crossed out and the number 515 was written therein.

The Department's record review found no evidence of ballot fraud. The Department contacted the Pontiac post office and was told by a postal clerk that the election mail was comingled into one bin because it did not fit in the individual post office boxes. A follow-up interview was conducted with the Pontiac postmaster who confirmed that the mail from the two post office boxes ended up in one bin since the envelopes were similar. There were 515 ballots returned to be counted in the election, but two ballots were voided, so 513 ballots were counted in the election. There were 513 open return ballot envelopes in the election records. The election results were confirmed, with minor discrepancies. The investigation revealed that the voted ballots were monitored by multiple observers, from the time they were picked up from the post office and driven to the union office, until the ballots were opened during the tally. There was no evidence of fraud. There was no violation.

For the reasons set forth above, the Department has concluded that there was no violation of Title IV of the LMRDA that had an effect on the outcome of the election, and I have closed the file regarding this matter.

Sincerely,

[REDACTED]

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