

U.S. Department of Labor

Office of Labor-Management Standards
Suite N-5119
200 Constitution Ave., NW
Washington, D.C. 20210
(202) 693-0143



June 28, 2023

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed with the U.S. Department of Labor (the Department) on March 31, 2023. The complaint alleged that the National Postal Mail Handlers Union ("NPMHU"), Local 304 ("Local 304" or "the union") violated Title IV of the Labor-Management Reporting and Disclosure Act of 1959, as amended ("LMRDA"), 29 U.S.C. §§ 481 - 483, in connection with the December 17, 2022, officer election.

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

You alleged that Local 304 changed the mailing date for the ballots to an earlier date without notice, which resulted in your campaign mailing arriving after members had received their ballots. Section 401(c) of the LMRDA requires that a union provide adequate safeguards to ensure a fair election. 29 U.S.C. § 481(c). The Department's investigation revealed that on September 15, 2022, Chief Election Judge Lee Branham sent the nominations notice to members, which informed members that the ballots would be sent on November 12, 2022. It further revealed that on October 6, 2022, Branham submitted his election timeline, including the tally date, December 12, 2022, and date for issuing the results, December 17, 2022, to [REDACTED], Assistant to the National Officers of the NPMHU, who informed him that the NPMHU Uniform Local Union Constitution, Article VI, Section 4.A, was amended in August 2022 to require that ballots be mailed forty-five (45) days rather than thirty (30) days in advance of the tally. In order to comply with this requirement, Branham decided to mail the ballots ten days earlier, rather than postpone the tally for fifteen days because he wished to avoid continuing the election into the holiday season. The investigation disclosed that Branham explained this change in the timeline at the October 15, 2022, nominations

meeting that neither you nor your opponent, incumbent President William “Bip” McLemore, attended.

The investigation found that Branham notified candidates by mail on October 18, 2022 of the new dates: the union would send the ballots on “November 2, 2022,” the tally would occur on “December 6, 2016 [sic],” and the union would issue the certified results on “December 22, 2022.” On October 27, 2022, you discussed the typographical errors in the notice regarding the tally with Branham. According to Branham, he explained to you the reason for the new ballot mailing date during that conversation and told you that he would send you a new version of the notice with the correct tally date via certified mail. You acknowledged that Branham did not specifically tell you that the November 2, 2022, ballot mailing date was an error, but you stated that you assumed that all the dates were errors. While you stated that you never received any notice of a certified letter, OLMS obtained records showing that a certified letter was sent to you, but not picked up. The investigation found that Local 304 made the change in the ballot mailing date for a legitimate reason and that it notified candidates of the change. To the extent that you misunderstood the notice, the investigation revealed that you frequently communicated with Branham during the election process and could have asked for clarification. There was no violation.

In addition, you alleged that your opponent, McLemore, received more favorable treatment because he knew about the earlier mailing date for the ballots and was able to distribute his campaign material on November 3, 2022. Section 401(c) of the LMRDA prohibits unions from discriminating between candidates with regard to campaign literature distribution. 29 U.S.C. § 481(c). You stated that the only way that McLemore could have known about the November 2, 2022, mailing date is if he had conspired with Branham. As discussed above, Branham informed members attending the nominations meeting of the new date and sent a letter informing candidates of the new date on October 18, 2022, so the earlier date was given to all candidates. The investigation further revealed that candidates, including you and McLemore, were offered the opportunity by the election judges to obtain labels for and mail campaign materials on November 4, 5, and 7, 2022, and that you chose to mail your campaign materials on November 7, 2022, while McLemore did not mail campaign materials. Instead, he along with other members of his slate combined their campaign materials into a booklet, which Vice-President Greg Hill picked up and paid for on November 7, 2022, and gave to other slate members the following day to deliver to different worksite employee breakrooms. Accordingly, there is no evidence that the change in the ballot mailing date provided your opponent with any advantage. There was no violation.

You alleged that the Dayton Branch President, Conswela McLemore, your opponent’s wife, collected ballots directly from branch members on union time. Section 401(b) requires a local union to elect its officer by secret ballot, and section 401(g) prohibits the use of union funds to promote the candidacy of any person in a covered union election.

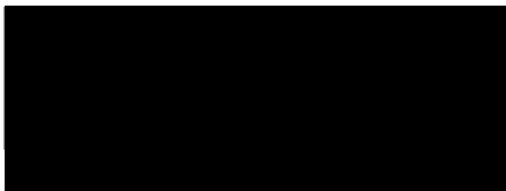
29 U.S.C. § 481(c) and (g). You were not able to provide the name of any witnesses and the investigation did not uncover any witnesses or other evidence that your allegations occurred. OLMS reviewed the election records and found no evidence of ballot tampering. Accordingly, there was no violation.

Last you alleged that McLemore delivered campaign booklets to union stewards on November 3, 2022, and “enlisted” their assistance in distributing them to members on union time. Section 401(g) prohibits the use of union funds to promote the candidacy of any person in a covered union election. 29 U.S.C. § 481(g). You did not provide any evidence or witnesses to support your allegations, but simply alleged that it was “standard practice” for the stewards to hand the booklets out to members at all times of day. As discussed above, the investigation found that the McLemore slate’s booklets were picked up by Hill on November 7, 2022. The investigation did not uncover any witnesses or other evidence to support that the union stewards campaigned on union time as you alleged. Rather, it indicated that the McLemore slate did not distribute the campaign booklets directly to members, but left them in employee breakrooms for members to take if they wished. Accordingly, there was no violation.

When interviewed, Dayton Branch President, Conswela McLemore, stated that she did distribute one McLemore campaign booklet to each of the four stewards at her Ohio branch. However, the investigation found no evidence that the stewards shared their booklets with any members. Further, the investigation revealed that the remaining booklets had not been placed in the break room. Nonetheless, to the extent that there was a violation, it would not have affected the outcome of any election in which the Ohio stewards were eligible to participate. The relevant race with the closest margin was the President’s race, which the incumbent President won by 76 votes.

For the reasons set forth above, The Department has concluded that there were no violations of the LMRDA that may have affected the outcome of the election. Accordingly, the office has closed the file in this matter.

Sincerely,



Chief, Division of Enforcement

cc: Paul V. Hogrogian, National President
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