



February 7, 2024



Dear [REDACTED],

This Statement of Reasons is in response to your March 9, 2023 complaint filed with the United States Department of Labor (Department) alleging violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U.S.C. § 481, *et seq.*, occurred in connection with the election of officers of the International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW) on November 29, 2022 through December 2, 2022.

Pursuant to a Consent Decree Order dated January 29, 2021, the United States District Court for the Eastern District of Michigan appointed an outside entity (the Monitor) to establish rules and provide oversight of the UAW's internal affairs, including international officer elections, for the next six years. Pursuant to Paragraphs 13 and 45 of the Consent Decree Order and Subsections 1-2, 9-2, and 9-3 of the 2022 UAW International Officer Election Rules (Election Rules), dated May 11, 2022, the Monitor is the initial and final internal union authority for all UAW union officer election protests.<sup>1</sup> In addition, decisions of the Monitor are considered final for purposes of determining internal exhaustion prior to filing a complaint with the Department.

You first filed a pre-election protest with the Monitor on November 11, 2022; you then filed a combined pre- and post-election protest with the Monitor on December 14, 2022. On February 10, 2023, the Monitor denied your protests. Subsequently, you filed a complaint with the Department on March 9, 2023. The Department investigated your allegations and has concluded that there was no violation of the LMRDA that may have affected the outcome of the election.

### Exhaustion of Remedies

In your complaint to the Department, you contend that your November 11, 2022 and December 14, 2022 protests were both proper and timely before the Monitor. Whether the allegations in your election protests were timely filed with the Monitor directly relates to whether those allegations are now properly before the Department.

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<sup>1</sup> There is an exception relating to rulings on candidate eligibility, not relevant in this instance. *See* Election Rules, 9-1 and 9-6.

Section 402 of the LMRDA requires a union member to exhaust available internal union remedies prior to filing a complaint with the Secretary of Labor. *See* 29 U.S.C. § 482(a). A member may file a complaint with the Secretary within one calendar month of receiving a final decision on an internal protest. 29 U.S.C. § 402(a)(1). A member who has invoked the available internal union remedies for three months without receiving a final decision may file a complaint with the Secretary within one month of the expiration of that three-month period. 29 U.S.C. § 402(a)(2); *see also* 29 C.F.R. § 452.135(b).

The UAW Election Rules provide the requirements that members must follow for filing pre-election and post-election protests to exhaust their internal remedies.

Subsection 9-2 provides that,

Protests concerning conduct occurring on or before November 28, 2022 (“pre-election protests”) . . . shall be filed within ten (10) calendar days of the day when the protestor becomes aware or reasonably should have become aware of the action protested or such protests shall be waived as to internal adjudication[.]

Election Rules, 9-2(b).

In contrast, Subsection 9-3 provides that,

Protests concerning conduct occurring on or after November 29, 2022 (“post-election protests”) shall be filed with the Monitor and processed in the following manner: (a) Protests regarding any alleged improper election day or post-election conduct or event must be filed by the later of: (1) fifteen (15) calendar days of the unofficial announcement of the applicable 2022 Election results; or (2) five (5) business days of the date when the protestor becomes aware or reasonably should have become aware of the action protested. If the above time limits are not met, the protest shall be waived as to internal adjudication[.]

Election Rules, 9-3(a).

The Election Rules were posted on the UAW’s and the Monitor’s websites on May 11, 2022.

In its February 10, 2023 decision, the Monitor addressed the 21 allegations raised in both your pre- and post-election protests. The Monitor determined two of your allegations had already been addressed by the Monitor and the subject of prior complaints filed

with the Department.<sup>2</sup> The Monitor also determined seven of your allegations were untimely as they alleged pre-election conduct of which you aware but did not protest within the required ten-day period.

Under the Consent Decree and Election Rules, the Monitor stands in the shoes of the UAW to hear and adjudicate allegations and protests of potential violations of the Election Rules or Title IV of the LMRDA. *See* Election Rules, Sections 1-2. The Department takes no position as to whether the Monitor's asserted interpretation of the election rules is the best or most reasonable interpretation. Rather, the Department's regulations mandate that the Department accept the union's interpretation of its governing document unless the interpretation is "clearly unreasonable." *See* 29 C.F.R. § 452.3. Further, consistent with long-standing Title IV precedent, the Department finds that under these circumstances there is "arguable authority" for the Monitor's interpretation and application of Election Rules. *Exec. Bd. Of Transp. Workers Union of Philadelphia, Loc. 234 v. Transp. Workers Union of Am., AFL-CIO*, 236 F. Supp. 2d 480, 488-89 (E.D. Pa. 2002), *order dissolved on other grounds*, 338 F.3d 166 (3d Cir. 2003) ("[i]f a court finds any arguable authority for [the union's] interpretation, [the interpretation] cannot be patently unreasonable, and the court will defer to that interpretation."); *see also Fulk v. United Tranp. Union*, 160 F.3d 405, 409 (7<sup>th</sup> Cir. 1998).

The Department's investigation established that the Monitor reasonably concluded that seven of your allegations were untimely because you did not properly exhaust the union's internal remedies. Because you failed to properly exhaust these allegations pursuant to the union's Election Rules, the Department does not have jurisdiction over these particular allegations and dismisses those seven allegations raised in your March 9, 2023 complaint. *See* 29 U.S.C. § 482; 29 C.F.R. § 452.135(b).

#### Remaining Allegations Properly Exhausted

The Monitor concluded that twelve of your allegations were timely filed, eleven of which the Department investigated:<sup>3</sup> (1) Monitor refused to provide information related to undeliverable ballots; (2) more members in closed locals voted than were tallied in the "At-Large" printout; (3) voters did not receive your campaign emails because the global email list was not up to date; (4) several locals in Region 2B did not cast any ballots; (5) you were not permitted to campaign at the Local 900 November 3, 2022 retiree meeting; (6) the vote count was inaccurate; (7) the handling, storage, and distribution of ballots was deficient; (8) there was poor communication between locals,

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<sup>2</sup> The Department subsequently investigated and dismissed these two allegations.

<sup>3</sup> Your protests broadly alleged that you were discriminated against on the basis of sex, race, age, and political affiliation. The Monitor dismissed this allegation on the basis that you failed to provide any evidence to support it. The Department does not have jurisdiction to investigate this claim as it alleges conduct that is not covered by Title IV of the LMRDA. Accordingly, this Statement of Reasons only addresses eleven of the twelve timely allegations.

UAW, and the Monitor; (9) individuals from Local 598 prevented you from campaigning; (10) one of your supporters was intimidated while campaigning at the Lake Orion plant; and (11) there were campaign materials for the Curry Solidarity Team slate on the sign-in table at the Local 900 November 3, 2022 retiree meeting. Each of these allegations is addressed below.

*Mail Ballot Distribution and Ballots Returned as Undeliverable*

You alleged that the UAW and the Monitor violated the LMRDA when they did not sufficiently work with local union leaders to properly update the membership database (LUIS), resulting in numerous undeliverable combined election notice and mail ballot packages. You further alleged that the Monitor failed to resolve undeliverable ballot packages, resulting in the disenfranchisement of numerous voters. Section 401(c) of the LMRDA requires that unions provide all members with adequate notice of the election and an opportunity to vote. 29 U.S.C. § 481(e). In a mail ballot election, this means the union has a duty to maintain an accurate mailing list of its members and take reasonable steps to ensure all members who are eligible to vote are mailed a ballot. This includes the duty to take reasonable steps to find correct addresses for undeliverable ballots.

The Department's investigation revealed that, prior to the general election, the union took the following steps to update its mailing list and find correct addresses for members:

- (1) In 2021, the union updated LUIS to include all member address information obtained during the UAW's 2021 mail ballot referendum election;
- (2) The union conducted multiple test mailings to identify new addresses;
- (3) The union sent numerous communications to the UAW membership requesting that each member ensure their address is current with their local union. These communications were disseminated via *Solidarity Magazine*, directives to local union leadership, posts on UAW's Facebook page and other UAW websites, as well as physical posters displayed at worksites and local union halls;
- (4) Prior to the ballot mailing, the union used the National Change of Address and TargetSmart databases;
- (5) The union established a duplicate ballot request process and created a call-in hotline that was publicized for members to contact if they needed assistance requesting a ballot;
- (6) The union sent numerous communications to local unions, encouraging each UAW local to continue making additional updates to LUIS;
- (7) There were numerous communications between the third-party election vendor and local unions, identifying membership records in need of updates; and

- (8) The UAW IT department, UAW regional representatives, and the election vendor all provided guidance and assistance to local unions regarding successfully updating LUIS.

Taken together, these efforts constitute reasonable steps taken by the UAW and the Monitor to maintain an accurate mailing list and find correct addresses for undeliverable ballots. As such, there was no violation of the LMRDA.

*Campaigning at Local 598 Meeting and Local 900 Retiree Meeting*

You next alleged that you were prevented from campaigning during a UAW Local 900 retiree meeting even though the Curry Slate was permitted to leave their campaign materials inside the meeting hall. You also alleged that you were not permitted to campaign to members inside the union hall at Local 598 during a union meeting. Section 401(c) of the LMRDA prohibits unions from discrimination in favor of or against any candidate with respect to campaigning, and section 401(g) of the LMRDA prohibits the use of union resources to promote the candidacy of any person in a union officer election. 29 U.S.C. §§ 401(c), (g).

With respect to Local 598, the Department's investigation found that you and your supporters were permitted to campaign outside of Local 598's union hall, but no candidates or supporters were allowed to campaign inside the building or during the meeting. While local unions were permitted to host candidates to speak at union meetings, they were advised that if they did so they had to provide the same opportunity to all candidates. The Department's investigation revealed that Local 598 chose not to allow any campaigning inside the union hall. Although you noted that incumbent UAW President Raymond Curry made an appearance at the Local 598 meeting to announce new products, you did not witness him campaigning for union office, nor did the Department's investigation reveal any evidence of such. Accordingly, there was no violation of the LMRDA.

As to the Local 900 retiree meeting, the Department's investigation revealed that you were permitted to campaign to Local 900 retiree members prior to the meeting. Furthermore, upon being notified of the presence of the Curry Slate campaign literature, you were provided the opportunity, and you took advantage of the opportunity, to leave your campaign literature in the meeting hall. Accordingly, there was no violation of section 401(c) of the LMRDA as there was no disparate candidate treatment. Further, even if your allegations constituted a violation of section 401(g), the Department found there were only 106 members present at the meeting; given that the smallest margin of victory in Region 1 races was 784 votes, this alleged violation could not have affected the outcome of the election.

### *Use of the Global Email List to Campaign*

You then alleged that the global email list offered for candidates to use to send campaign material was incomplete because UAW failed to update it. Along with the requirement to refrain from disparate candidate treatment, section 401(c) of the LMRDA also requires unions to comply with all reasonable requests of any candidate to distribute campaign literature and to provide adequate safeguards to ensure a fair election. 29 U.S.C. § 481(c). The election rules notified candidates that the global email list would be updated throughout the election cycle. The Department's investigation revealed that the UAW maintains an incomplete database of members' email addresses, which is the list that was offered to candidates for sending campaign materials. The investigation found that the union updated its global email list during the election cycle. The investigation further revealed that the election vendor complied with your request to campaign via email and used the same email list to distribute your campaign materials as was used for all other candidates who requested to send a campaign email at that time. Notably, although the UAW was required to make its email list available for campaign literature distribution pursuant to the union's election rules promulgated for this election, Title IV does not require that the union take steps to create and actively maintain an accurate list of members' email addresses. As such, this allegation does not constitute a violation of the LMRDA.

### *Reporting "At-Large" Vote Totals*

You alleged that the vote tally was inaccurate because more members in closed locals voted than appear to be tallied as "At-Large." As mentioned above, section 401(c) of the LMRDA requires union to provide adequate safeguards to ensure a fair election. 29 U.S.C. § 481(c). Additionally, section 401(e) of the LMRDA requires union to count votes cast by eligible members of each local labor organization. 29 U.S.C. § 481(e). The Department's investigation revealed that ballots cast by members of closed locals were reported together, under their respective regions, with a generic precinct code (Local 8683) to protect voter secrecy. For ballots received from members of closed locals where the Monitor could not assign a specific region code, the votes were reported as part of the "At-Large" region. This does not constitute a violation of the LMRDA.

### *Ballots From Region 2B*

You alleged that the tally results do not include votes from nine locals in Region 2B, indicating a problem with balloting in those locals. The LMRDA requires unions to provide adequate safeguards to ensure a fair election, a reasonable opportunity for members to vote, and to properly count voted ballots. *See* 29 U.S.C. §§ 481(c), (e). The Department's investigation did not reveal any evidence of ballot distribution or ballot

tally abnormalities unique to Region 2B. As such, there was no evidence to substantiate your allegation. There is no violation.

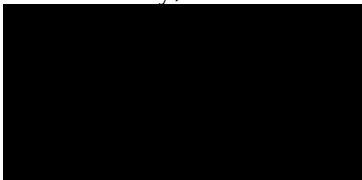
*Intimidation at Lake Orion Plant*

You alleged that a member of the Curry Slate intimidated a member of your campaign team while she attempted to distribute campaign flyers at the entrance of the Lake Orion plant. Section 401(c) of the LMRDA requires unions to provide adequate safeguards to ensure a fair election, and section 401(e) prohibits unions from interfering with any members' right to support the candidate or candidates of their choice. *See* 29 U.S.C. §§ 481(c), (e).

During the Department's investigation, your supporter reported that a Curry supporter followed her around the worksite for 40-minutes and positioned himself to block her from passing out flyers to members. During this time, the Curry supporter allegedly also told members to vote for one of your opponents. Another witness explained that the Curry supporter was loud and engaged in "trash talk" to heckle your supporter. The investigation confirmed that there was no physical confrontation between your supporter and the Curry supporter, nor did the Curry supporter take any of your supporter's campaign flyers. Moreover, despite the Curry supporter's behavior, your supporter was otherwise able to remain at the site and campaign until she ran out of flyers. Accordingly, this does not constitute a violation of the LMRDA.

For the reasons set forth above, the Department has concluded that there was no violation of Title IV of the LMRDA that may have affected the outcome of the election. As such, the office has closed the file regarding this matter.

Sincerely,



Tracy L. Shanker, Chief  
Division of Enforcement

cc: Shawn Fain, President  
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Associate Solicitor for Civil Rights and Labor-Management