



January 15, 2010



Dear [REDACTED]:

This Statement of Reasons is in response to the complaint that you filed with the United States Department of Labor ("Department") on May 27, 2009 alleging that a violation of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 ("the Act"), as amended 29 U.S.C. §§ 481-484, occurred in connection with the election of officers for the New York Metro Area Postal Union (the "Local"), an affiliate of the American Postal Workers Union ("APWU"), completed on April 24, 2009.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded that no violation occurred.

You alleged that the Local failed to hold the February membership/nominations meeting at the proper time. Specifically, you contend that the monthly meeting times were on a set rotation of 9:00 a.m., 2:00 p.m., and 5:00 p.m. and that the February meeting should have been held at 2:00 p.m. rather than at 9:00 a.m. The Department's investigation did not substantiate this claim.

The Act requires that a reasonable opportunity be afforded for the nomination of candidates and that the nomination procedures employed be reasonable. *See* 29 U.S.C. § 481(e); *see* 29 C.F.R. § 452.55. Article 6, Section 1 of the Local's constitution sets the day of the membership meeting as the third Wednesday of every month (except for July, August, and December when there are no meetings). Article 12, Section 5 requires that nominations for all officers and trustees be made at the February membership meeting.

The investigation revealed that the time of monthly membership meetings was at the discretion of the Local President. Further, a review of the meeting times from January 2008 through February 2009 showed no discernable rotation pattern and no meetings

starting at 2:00 p.m. (with the possible exception of February 2008 for which no meeting time was found). Moreover, the Local announced the time, date, and place of the nominations meeting in its January and February newsletters which were mailed to the membership and through notice postings at worksites. There was no violation of the Act.

You also alleged that the February membership/nominations meeting lacked the quorum required to suspend the regular order of business and proceed directly to the nominations. The investigation did not substantiate this allegation.

Article 6, Section 4 of the Local's constitution establishes that 75 members constitute a quorum for the transaction of union business at any regular or special membership meeting. Further, Article 6, Section 5 sets nominations as the sixth order of business but permits for the order to be transposed, reopened, or suspended by a two-thirds vote of the members present. In this case, the investigation revealed that 95 people attended the February meeting. However, as members do not indicate the time of their arrival when they sign the attendance sheet, the investigation did not reveal that less than 75 persons were present at any one time. Moreover, the Act does not require a quorum for nominations. There was no violation of the Act.

Finally, you alleged that the Local improperly refused to reopen nominations at a member's request. The procedure for a member to accomplish that is set forth in *Robert Rules of Order* ("RRO") which is incorporated by reference in Article 6, Section 6 of the constitution. RRO requires a motion, a second, and a vote. In this case, the investigation did not reveal sufficient evidence to show that any member followed these requirements and made or had seconded a motion to reopen nominations. Indeed, the member identified as having made a motion, denies doing so. He also denies attending the meeting and his name does not appear on the sign-in sheet. There was no violation of the Act.

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

Sincerely,

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Chief, Division of Enforcement

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