



June 1, 2010

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed with the Department of Labor on July 10, 2008. In the complaint, you alleged that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (Act), 29 U.S.C. §§ 481-484, occurred in connection with the election of officers completed by the American Postal Workers Union, California Area Local 4635 (union), on March 31, 2008.

The Department of Labor conducted an investigation of your allegations. As a result of the investigation, the Department has concluded, with respect to each of your specific allegations that no violation occurred that may have affected the outcome of the election. Following is an explanation of this finding.

You alleged that election committee members attempted to persuade a member to vote for the incumbent president during a grievance meeting while the election committee members were on union time. Section 401(g), of the Act, 29 U.S.C. § 481(g), prohibits union financed campaigning unless such financing is made available to all candidates. The investigation failed to substantiate this allegation. The investigation showed that during the alleged incident, an election committee member, who was acting in his official capacity as a union steward, took a statement from the member regarding a labor grievance. A witness to this incident stated during the investigation that the official did not solicit the member's vote for any candidate, including the incumbent president. The Act was not violated.

You alleged that election committee members attempted to intimidate members by asking them questions about their ballots and informing members that they were required to mail their own ballots and could not give their voted ballots to someone else for mailing. Section 401(c) of the Act, 29 U.S.C. § 481(c), requires a union to provide adequate safeguards to ensure a fair election. In this regard, it is an appropriate safeguard for a union to prohibit individuals from collecting and having unsupervised possession of voted ballots. Thus, any admonishment election committee members provided members regarding members handling another member's ballot was

appropriate and did not amount to attempted or actual intimidation. The Act was not violated.

You alleged that the union failed to provide you with a list containing the addresses and telephone numbers of the postal facilities where members work. The investigation found no violation regarding the union's failure to provide you with the list. Sections 401(c) and (g) of the Act, 29 U.S.C. §§ 481(c), (g), respectively, provide that unions must refrain from discrimination in the use of lists of members for campaign purposes and prohibit union financed campaigning, unless such financing is made available to all candidates. The investigation disclosed that the union did not provide such a list to any candidate and did not find that the incumbent officers used information concerning the locations or telephone numbers of the postal facilities that they had knowledge of as a result of serving as union officials to campaign. Further, you had access to the addresses of all the postal facilities in that they were published in the union's regular newsletter. The Act was not violated.

You alleged that the union allowed incumbent candidates to post campaign materials on the union's locked bulletin boards before the opposition candidates were permitted to do so. You also alleged that the incumbents' campaign flyers were posted on top of the opposition candidates' campaign flyers on such boards. The investigation found no violation regarding the campaign postings. Section 401(c) of the Act, 29 U.S.C. § 481(c), requires a union to provide adequate safeguards to ensure a fair election. The investigation revealed that a union steward posted the campaign materials of the incumbent candidates as well as the opposition candidates on the union's locked bulletin boards. The union steward posted and rotated the materials on the board as he received such materials. When there was no space on a board to post a campaign flyer of a particular slate, the steward posted the most recent flyer of a slate on top of the slate's older flyers but the campaign materials of one slate were not placed on top of materials of another slate. The investigation disclosed that both groups were treated equally with respect to the campaign postings. The Act was not violated.

Finally, you alleged that you were denied the right to inspect the membership mailing list within 30 days of the election. Section 401(c) of the Act, 29 U.S.C. § 481(c), provides in part, "[e]very bona fide candidate shall have the right, once within 30 days prior to an election . . . in which he is a candidate to inspect a list containing the names and last known addresses of all members of the labor organization" When, as in this case, a mail ballot system is employed under which ballots are returnable as soon as received by members, the right to inspect a list must be accorded within the 30-day period prior to the mailing of the ballots to members. See 29 C.F.R. § 452.72. Here, members first learned that the union would conduct a new election and that ballots would be mailed on March 15 when they received the notice announcing the rerun election that was mailed out on March 13, 2008. You requested to review the membership list in order to

verify the membership at the City of Industry facility. You were not permitted to do so because the ballots had already been mailed out when you made your request. However, any delay in your request was due to the union's failure to timely notify you of the date of the ballot mailing. Thus, the Act was violated in that you were not accorded the right to inspect the list within the 30-day period prior to the mailing of the ballots to members. However, the investigation disclosed that the membership list was accurate, all eligible members were mailed a ballot, and only the ballots of eligible voters were include in the vote tally. Thus, this violation could not have affected the outcome of the election.

For the reasons set forth above, it is concluded that there was no violation of the Act that may have affected the outcome of the election, and I have closed the file on this matter.

Sincerely,

Cynthia M. Downing
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Office of Labor-Management Standards

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