



May 18, 2010

[REDACTED]

Dear [REDACTED],

This Statement of Reasons is in response to the complaint you filed with the United States Department of Labor (Department) on February 17, 2010, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA or Act), 29 U.S.C. § 481-484, occurred in connection with the mail ballot election of officers of the American Postal Workers Union, Local 140 (Union), which concluded on November 12, 2009.

The Department has conducted an investigation of your allegations and has concluded, with respect to these allegations that no violation of Title IV of the LMRDA has occurred. This conclusion is explained below.

You alleged that the union failed to provide adequate safeguards to ensure a fair election in that it did not provide sufficient time for candidates to submit articles for a second election newspaper. Further, you asserted that the second election newspaper exacerbated the union's disparate treatment of candidates, which was created when some candidates were allowed to have articles published that exceeded the 200 word limit in the first edition of the election newspaper. Section 401(c) of the LMRDA prohibits disparate candidate treatment and requires a union to provide "adequate safeguards to ensure a fair election." 29 U.S.C. § 481(c); *see also* 29 C.F.R. § 452.110(a) (requiring a "general rule of fairness"). "The Act does not prohibit impartial publication of election information," when all candidates have been given equal opportunity to contribute and participate. *See* 29 C.F.R. §§ 452.74 and 452.75.

The Department's investigation revealed that the union allowed candidates to submit a 200 word campaign article for publication in the October 2009 edition of the *Dispatch*, the union newspaper. Some articles in this election edition of newspaper exceeded the 200 word maximum. The Union discovered this error on or about October 8, 2009, after the paper had been published. After consulting with the International APWU, the

Union decided to publish a second election edition of the newspaper, with a higher 240 word limit. On October 12, 2009, the Election Committee sent letters (requiring delivery confirmation) informing candidates that they could submit new articles for publication in a second election edition, by noon on October 16, 2009, or indicate that they wanted their original article reprinted. According to the United States Postal Service, you received this letter on October 15, 2009. On October 18, 2009, the Election Committee, having noticed that most candidates received the letter on October 15, sent each candidate a letter via Express Mail extending the article submission deadline to October 21, 2009. You stated you received the Election Committee's letter on October 20, 2009.

Six candidates submitted new articles, seven requested their original article be reprinted, two submitted the same article for reprinting, three were unopposed and prohibited from publishing a second article, two did not submit an article for either issue, and fifteen did not respond to the letters. You did not submit a second article, but your original article was republished in the second newsletter. Because all candidates were given the same notice and time to submit new articles, the Department has concluded that there was no disparate candidate treatment and therefore no violation of section 401(c). The underlying issue of whether the first paper violated the Act was not properly appealed and is therefore outside the scope of the Department's authority. *See* 29 C.F.R. § 452.135.

You alleged at least 16 other violations in your complaint. These allegations are not properly before the Department for investigation because they were not properly exhausted according to the Union's appeals process. *See* 29 U.S.C. § 482 and 29 C.F.R. § 452.135.

For the reasons set forth above, the Department has concluded that there was no violation of the LMRDA affecting the election outcome, and I have closed the file in this matter.

Sincerely,

Cynthia M. Downing
Chief, Division of Enforcement

cc: William Burrus, President
American Postal Workers Union
1300 L Street, N.W.
Washington, D.C. 20005

Dena Briscoe, President
American Postal Workers Union, Local 140
6139 Chillum Place, N.E.
Washington, D.C. 20011

Katherine Bissell, Associate Solicitor for Civil Rights and Labor-Management