



November 3, 2010

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed on July 7, 2010 with the Department of Labor alleging that a violation of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U.S.C. §§ 481-484, occurred in connection with the election of officers conducted by the American Postal Workers Union, Local 172 ("APWU" or local), on March 19, 2010.

The Department of Labor (Department) conducted an investigation of your allegation. As a result of our investigation, the Department has concluded, with respect to your allegation, that there was no violation that may have affected the outcome of the election.

You alleged that a new 24 month continuous good standing requirement for candidate eligibility, adopted just four months prior to the March 2010 election of officers and applicable to that election, did not provide members sufficient time to meet the requirement thereby denying members the opportunity to run for office. The investigation established that on November 24, 2009, Local 172 amended Article IV, Section 4 of its Constitution and Bylaws and adopted a new eligibility requirement for office. The new rule states that:

Any active member in good standing prior to the nomination meeting is eligible to be nominated for office provided they have been a member in good standing for a minimum of two (2) years prior to the nomination meeting.

Section 401(e) of the LMRDA provides that in any election of officers required by the Act to be held by secret ballot, a reasonable opportunity shall be given for the nomination of candidates and every member in good standing shall be eligible to be a candidate and to hold office subject to reasonable qualifications uniformly imposed. 29 C.F.R. § 452.36. A two year good standing eligibility requirement is not, on its face, an

unreasonable qualification on candidacy. 29 C.F.R. § 452.37. However, a facially reasonable qualification may be unreasonably applied. Here, institution of a two year good standing eligibility requirement four months before the election is an unreasonable qualification on candidacy in violation of section 401(e) of the LMRDA. However, the investigation did not reveal that the violation of the LMRDA may have affected the outcome of the election. The Department's investigation established that although Local 172 initially declared you ineligible to run for the office of President based on application of the rule, by letter dated February 19, 2010, Local 172 reinstated your eligibility and informed you that your name would appear on the ballot. You, however, by letter dated February 19, 2010, informed the Election Committee that you were withdrawing your candidacy for General President. Moreover, while the Department's investigation established that there were at least 56 members rendered ineligible by the new rule, the investigation did not reveal evidence that any of these members wanted to run for an office but were discouraged from doing so based on the two year eligibility requirement. No other member protested this issue, and you were unable to identify anyone who could have been affected by the application of the new eligibility requirement to the 2010 election of officers.

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, and I am closing our file regarding this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

cc: William Burrus, President
American Postal Workers Union, AFL-CIO
1300 L Street NW
Washington, DC 20005

Ms. Carol Whitehead-Sutton, President
American Postal Workers Union, Local 172
2500 N.W. 97th Avenue, Suite 200
Doral, Florida 33172

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