



July 14, 2009

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed with the Department of Labor on April 14, 2009, alleging that violations of the election provisions of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U.S.C. § 481, as made applicable to the elections of federal sector unions by 29 C.F.R. § 458.29 and the Civil Service Reform Act of 1978, 5 U.S.C. § 7120, occurred in connection with the election of officers conducted December 29, 2008, by American Federation of Government Employees (AFGE), Local 3369.

You raised several allegations in your protest regarding the union's December 29, 2008 officer election. Under Section 402(a) of the LMRDA, a member of a local organization who has exhausted the remedies available under the constitution and bylaws of such organization and of any parent body may file a complaint with the Secretary of Labor within one calendar month. 29 U.S.C. § 482(a). Appendix A, Part III, Section 2 of the AFGE Constitution, requires that protests in local officer and delegate elections must be made to the local election committee prior to, during, or within 10 days after the election.

The Department investigation revealed that you attempted to protest the December 29, 2008 election by mailing a certified letter postmarked January 8, 2009 to the election committee. Your letter, however, was returned to you as undeliverable because it had been mailed to the local union's previous address at 136-65 37<sup>th</sup> Avenue, Room 206, Flushing, New York, rather than its current address at 138-50 Barclay Avenue, Flushing, New York. The investigation revealed that after your protest letter was returned to you, you contacted the election committee chairperson who told you to mail it to her. You then mailed your protest to the election committee by express mail on January 12, 2009. On January 13, 2009, your protest was received by election committee chairperson Sharon Ward. The deadline for filing any protest of the

December 29, 2009 election was January 8, 2009 (10 days after the December election), but your protest was received five days beyond the deadline.

The investigation revealed that the local stopped using the 37<sup>th</sup> Avenue address approximately two and one-half years ago. The local union's June 13, 2006 membership meeting minutes show that Local 3369 moved its office to the current Barclay Avenue address on Friday, June 23, 2006. The new address was announced at this meeting and recorded into the meeting minutes. Also, the investigation revealed that the local's correct Barclay Avenue address was listed on the letterhead used for the notice of nominations and election. In addition, that same notice listed the local's current mailing address in the text of the notice. Even though this notice did not specify an address to which members should direct election protests, it contained the correct mailing address which should have been sufficient notice to you and other members of where to mail protests. Inasmuch as the January 12 postmark date and the January 13 receipt by the election committee chairperson are both beyond the 10-day post-election protest period prescribed in the AFGE Constitution, you failed to file a timely protest of the December 29, 2008, election. Consequently, you did not exhaust your internal remedies, and, as a result, the Secretary of Labor has no authority to consider the merits of your protest. *See* 29 U.S.C. § 482.

For the reasons set forth above, I have closed the file regarding this matter.

Sincerely,

Cynthia M. Downing  
Chief, Division of Enforcement

cc: John Gage, National President  
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Katherine Bissell, Associate Solicitor for Civil Rights and Labor-Management