



April 1, 2011

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your complaint dated December 13, 2010 filed with the United States Department of Labor , alleging that violations 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 American Postal Workers Union (APWU), Local 190 election of officers on October 8, 2010.

The Department has conducted an investigation of your allegations. As a result of the investigation, the Department has concluded that there was no violation that may have affected the outcome of the election.

You alleged that the Local failed to comply with your requests to distribute campaign literature on August 27, September 3 and September 4, 2010. Section 401(c) of the Act imposes a duty on unions to "comply with all reasonable requests of any candidate to distribute by mail or otherwise at the candidate's expense campaign literature in aid of such person's candidacy." 29 U.S.C. § 481(c). The Local refused to comply with your August 27th request because its officers were attending the APWU National Convention out of state and with your September 4th request because it fell on a Saturday when the Local's office was closed. The investigation did not establish that you made a September 3rd request to the Local.

Your requests were not unreasonable. Thus, the Local violated the Act when it refused your requests to distribute literature. However, in order to be actionable, a violation must not have been remedied and must have "affected the outcome of an election." 29 U.S.C. § 482(b), (c)(2). Here, the Local offered you alternative mailing dates both before and after your requested dates. Instead of making a mailing on one of the available dates offered to you by the Local, you chose to make your own campaign mailing. By doing so, you remedied the violation and eliminated any effect that it might have had on the outcome. Thus, there was no violation that had an effect on the outcome of the election.

You also allege that the Local refused your request to inspect its membership list on August 23, 2010. Section 401(c) of the Act provides that every candidate has the right to inspect a list containing the names and last known addresses of all members who are subject to a collective bargaining agreement requiring membership therein as a condition of employment, once within 30 days of the election. Accordingly, this section of the law is not applicable for members who are not subject to a collective bargaining agreement requiring membership as a condition of employment. Additionally, the Act does not require the Local to make the list available on a particular day within the 30-day period. The investigation revealed that you were afforded the opportunity to inspect the membership list on August 18, 19, 30, 31, September 1, 2, 3, 7, 8, 9, 10, 13, 14, 15 and 16. Thus, there was no violation of the Act.

For the reasons set forth above, the Department concludes that there was no violation of the LMRDA affecting the outcome of the election. Accordingly, I am closing the file on this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

cc: Jack W. Dougherty, Local 190 President
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