



April 25, 2014

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed on January 13, 2014. You alleged that a violation of Title IV of the Labor Management Reporting and Disclosure Act of 1959 (LMRDA), occurred in connection with the American Postal Workers Union (APWU), Local 2803, election of officers held on September 14, 2013.

The Department of Labor conducted an investigation of your allegation. As a result of the investigation, the Department has concluded that, with respect to each of your allegations, there were no violations of the LMRDA that may have affected the outcome of the election.

You alleged that the union improperly permitted a union member to run for an office in the Local's election without accepting his nomination. Section 401(e) of the LMRDA requires that an election of a local union be conducted in accordance with its constitution and bylaws. Article 9, Section D(1) of Local 2803's Constitution and Bylaws states that individuals nominated for office must accept the nomination orally at the nominations meeting or in writing within 5 days after the nominating meeting. You alleged that [REDACTED] was nominated at the nominations meeting held on August 10, 2013, but was not present at the meeting and failed to submit a written acceptance of his nomination within five days, and therefore should have been declared ineligible to run for the position.

The Department's investigation revealed that [REDACTED] submitted a written acceptance to the Local's Secretary on August 12, 2013, two days after the nomination meeting. [REDACTED] therefore properly accepted the nomination in accordance with the Local's Constitution and Bylaws. There was no violation of the LMRDA.

You also alleged that ineligible members were allowed to vote in the election. Section 401(c) of the LMRDA requires a union to provide adequate safeguards to insure a fair election. Specifically, you alleged that members in the vehicle maintenance facility

(VMF) were ineligible to vote for the Maintenance Craft Director position but were sent ballots for that position, in addition to the ballots for union president.

The investigation disclosed that while three VMF members were improperly sent ballots for the Maintenance Craft Director position, they only voted the ballots for president and did not vote for the Maintenance Craft Director position. Additionally, the successful candidate for the Director position won the election by a margin of 6 votes.

The Department conducted a recount, which verified the margin by which the successful candidate won. Under section 402(c) of the LMRDA, in order for a challenged election to be declared void and a new election ordered, a preponderance of the evidence must show "that the violation ... may have affected the outcome of an election." Thus, even if the three VMF members had improperly voted for the Maintenance Craft Director position, those votes would have had no effect on the outcome of the election.

In addition to the above issues, your complaint to the Department included an issue that you had not timely raised under the union's protest procedure. As you had not met the requirement of section 402(a) of the LMRDA that you exhaust internal union remedies prior to filing with the Department, this issue is not properly before the Department.

It is concluded from the analysis set forth above that the investigation failed to disclose any violation of the LMRDA that may have affected the outcome of the election. Accordingly, I am closing the file on this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

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

[REDACTED]

APWU Local 2803

[REDACTED]

Christopher Wilkinson, Associate Solicitor for Civil Rights and Labor-Management