



August 13, 2014



Dear [REDACTED]:

This Statement of Reasons is in response to the complaints you filed with the U.S. Department of Labor on May 12, 2014, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the election of union officers conducted by the American Postal Workers Union (APWU) Local 458 on March 13, 2014.

The Department of Labor conducted an investigation of your allegations. As a result of the investigation, the Department has concluded, with respect to the specific allegations, that there was no violation of the LMRDA.

You alleged that information the incumbent president published in the January 23, 2014 Membership Update and the February 6, 2014 Membership Update, union-financed publications, constituted campaigning, that such campaigning advanced the candidacies of the incumbents, and that union funds and/or employer funds were used in the preparation and dissemination of the publications.

Section 401(g) of the LMRDA prohibits the use of employer or union funds to promote the candidacy of any person in union officer elections. 29 C.F.R. §§ 452.73, 76. To this end, the provisions of section 401(g) of the LMRDA prohibit any showing of a preference by a labor organization or its officers, which is advanced through the use of union funds to criticize or praise any candidate. Thus, a union may neither attack a candidate in a union-financed publication nor urge the nomination or election of a candidate in a union-financed letter to members. Courts have consistently held that the tone, content, and timing of union-financed publication determines whether such publication is in fact material promoting the candidacy of a person thus falling within the section 401(g) prohibition.

The investigation disclosed that you based your allegations on the fact that the updates included information concerning the grievances Local 458 filed in 2013, the names of the

incumbent local officers who handled such grievances, and the amount of money the local won in grievances as compared to other APWU locals. However, the Department's review of the January 23 and the February 6 Membership Updates established that they did not constitute campaign material that promoted any candidates in the election. The updates did not reference the election, the candidacies of the incumbent officers, or the candidacies of the opposing candidates. The updates did not solicit members' votes or seek political support from members. Further, the incumbent president's inclusion of information in the updates regarding the grievances was in response to members' inquiries and concerned a matter of legitimate interest to the membership. There was no violation of the LMRDA.

For the reasons set forth above, it is concluded that there was no violation of the LMRDA that may have affected the outcome of the election. Accordingly, the office has closed the file on this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

cc: Mark Dimondstein, National President
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