



April 26, 2017

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your July 8, 2016 complaint filed with the United States Department of Labor (Department) alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) occurred in connection with the election of officers held by Local 2 (Local 2 or the union) of the American Postal Workers Union (APWU), on April 25, 2016.

The Department 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 that may have affected the outcome of the election.

Initially, you alleged that the incumbent slate posted campaign materials using union resources. Section 401(g) of the Act prohibits the use of union resources to promote a candidate. Specifically, you alleged that the incumbent slate's campaign flyer incorporated a confidential, official, email communication from the email account of [REDACTED], the unsuccessful, insurgent, presidential challenger in the election. The heading of the email suggested that [REDACTED] was protecting management in his representation duties.

The investigation revealed that campaign flyers in support of the incumbent president contained an excerpt from an email communication between [REDACTED] and a United States Postal Service (USPS) manager. These flyers were posted at the San Francisco, CA Processing & Distribution Center (P&DC) cafeteria and inside locked bulletin boards at the Burlingame Priority Mailing Annex (PMA). [REDACTED] confirmed that the email communication was a private, official, union communication between himself and a USPS manager relating to an internal Equal Employment Opportunity (EEO) matter and was not intended for anyone else to see.

Local President Geoffray Dumaguit stated that union emails are considered union property and that both he and the local secretary, Linda Victor, had access to union emails. Dumaguit stated that he was aware of the email excerpt being included in the flyers posted during the election, but denied posting them himself. Victor confirmed having access to the union emails, but said that she never saw the email in question. Union Vice President Angela Bostic saw the email flyer at the P&DC, PMA, San Francisco International Service Center (ISC), and eight or nine other postal facilities; she denied posting it, but admitted writing on it "What Trust" in a blue Sharpie, each time she saw it. While the investigation did not determine who accessed the official union email concerning a member's EEO case, the investigation confirmed that it was a union resource used for campaign purposes. This was a violation.

The investigation further indicated that the internal union email was posted at minimum at three sites: the P&DC (338 members voted), the PMA (8 members voted, all clerk craft) and the ISC (82 members voted). There were a total of 428 voters from these sites. If this violation, which targeted a presidential candidate, were evaluated in isolation, it could have impacted the president's race, which was decided by a margin of 129.

However, during the investigation, Dumaguit indicated that [REDACTED] also used internal union emails in his campaign literature. He asserted that [REDACTED] created a three-page campaign flyer, titled "The Collusion," which contained two emails to and from [REDACTED], originating from [REDACTED] who wrote the email in his capacity as Clerk Craft Director. The campaign flyer concerned a steward seniority controversy and was critical of President Dumaguit. According to Dumaguit, it was posted in the San Francisco postal facilities sometime after ballots were received but during the week of April 4th; Dumaguit protested this to the election committee on April 11th.

The investigation confirmed that the [REDACTED] campaign flyer incorporated official emails that [REDACTED] had written in his union capacity. It also confirmed that [REDACTED] incorporated these messages into this campaign flyer, which he posted at the P&DC cafeteria, one of the same facilities where the flyer he complained of was posted. The investigators had initially asked [REDACTED] for copies of all his election literature, but he did not furnish this flyer or explain his reason for failing to do so. You also did not initially disclose the existence of this flyer.

Because both the incumbent and challenger used internal union emails to campaign, the violations offset each other at the P&DC cafeteria. There were 338 voters at this location; the other locations where the pro-Dumaguit literature was posted had a total of 90 voters. Although [REDACTED] stated that she saw the pro-Dumaguit literature at some of the other smaller facilities, the investigation did not disclose any further evidence

regarding additional postings. As the margin in the presidential race was 129 votes, the posting at the remaining locations could not have affected the outcome of the election. Accordingly, there was no violation that could have affected the outcome of the election.

Second, you alleged that the incumbents used union funds to promote their candidacies when they used a locked union bulletin board at the PMA to post their campaign flyers. The investigation revealed that another candidate protested this issue to the election committee, complaining that campaign literature was posted in the bulletin boards at the PMA on April 8, 2016, and that it was still posted on April 12, 2016. On April 13, 2016, a member of the election committee went to take the literature down, but it had already been removed.

The investigation further revealed conflicting evidence regarding whether the bulletin boards were restricted to union business and whether they were locked. According to the union, the bulletin boards at the PMA belong to management and are unlocked. The flyers posted at the PMA were not on the official union bulletin board, but next to it. A USPS management official identified three locked bulletin boards on the workroom floor dedicated for union business. The union has the key to these bulletin boards, and the boards are to be used for official union business only. The USPS official stated that, during the election, campaign material was posted on one of the boards.

The investigation revealed that material posted in the PMA bulletin boards was from the incumbents. This use of a union resource violated the Act. However, only 8 members (clerk craft) voted from the PMA. This number of votes was insufficient to affect the margins in any race except for that of Assistant Clerk Craft Director, which was decided by a margin of three votes. However, the incumbent, [REDACTED], lost. Accordingly, this violation could not have had an effect on the outcome of the election.

Third, you alleged that the incumbents gained unfair access to the membership list by having a return address on their campaign literature and thereby receiving address corrections or information regarding invalid member addresses. The LMRDA does not prohibit use of return addresses on campaign literature. Although you assert that the election committee prohibited the use of return addresses, the investigation did not disclose any constitution, bylaw or election rules provision addressing this issue. Further, USPS official policy requires that all first class mail have a return address. There was no violation.

Finally, you raised additional allegations for the first time during the Department's investigation of your complaint. In order to file a complaint with the Secretary of Labor, Section 402(a) of the LMRDA requires that a member first pursue the internal

remedies available under the union's constitution and bylaws. Accordingly, those claims were not properly before the Department, and were not included in the investigation. 29 C.F.R. § 452.136(b-1).

For the reasons set forth above, the Department has 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 regarding this matter.

Sincerely,



Chief, Division of Enforcement

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