



January 15, 2010



Dear [REDACTED]:

This Statement of Reasons is in response to the complaint that you filed with the United States Department of Labor ("Department") on June 1, 2009 alleging that a violation of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 ("the Act"), as amended 29 U.S.C. §§ 481-484, occurred in connection with the election of officers for the New York Metro Area Postal Union (the "Local"), an affiliate of the American Postal Workers Union ("APWU"), completed on April 24, 2009.

The Department conducted an investigation of your allegation. As a result of the investigation, the Department has concluded no violation occurred.

You alleged that the Local improperly denied you the opportunity to nominate or be nominated for office in the April election due to erroneously declaring you to not be a member in good standing. The investigation did not substantiate this allegation.

Section 401(e) of the Act requires that a reasonable opportunity to nominate be given and that every member in good standing shall be eligible to be a candidate and to hold office subject to "reasonable qualifications uniformly imposed." It also provides that covered elections be conducted in accordance with the constitution and bylaws of the union in so far as they are consistent with the provisions of the Act. *See* 29 U.S.C. § 481(e). Further, "the interpretation consistently placed on a union's constitution by the responsible union official or governing body will be accepted unless the interpretation is clearly unreasonable." *See* 29 C.F.R. § 452.3.

In December 2008, you received a letter from Local Secretary-Treasurer Wilfredo Figueroa that advised you that due to a 2008 National Convention resolution, all members receiving workers' compensation would have to start paying dues beginning on January 1, 2009 and that in order to remain a member in good standing you would have to pay dues for the full first quarter of 2009. The investigation revealed you received workers' compensation from 2003 until September 27, 2008, at which time you

entered leave without pay status pending retirement. You re-entered pay status for one day during the third pay period of 2009 and had full dues deducted for that period. Otherwise, throughout your time off work your dues had been waived. On January 21, 2009, you attempted to attend the monthly membership meeting but were turned away by Figueroa because he claimed you were not in good standing. Only those in good standing are allowed to participate in membership meetings. By letter dated February 3, 2009, you contested the applicability of the resolution to your situation since you were no longer on workers' compensation. Figueroa responded, by letter dated February 10, 2009, and again asserted that you would not be in good standing unless you paid dues in advance for the full quarter.

On February 12, 2009, you decided to pay the dues for pay periods one, two, four, and five. You brought a check in the amount of \$250 to the Local office and also brought a check of a friend. When Figueroa refused to accept your friend's check you withdrew your check as well and decide to take the matter up with the APWU National. Later that morning, you contacted Roosevelt Stewart of the APWU's Secretary-Treasurer's office. Stewart confirmed that if you were not receiving workers' compensation the resolution did not apply to you and that there was no requirement to pay dues in advance. You informed him that, because the nominations meeting was coming up, you were going to pay dues through pay period five to avoid further controversy. Stewart suggested you mail the payment via certified mail and told you he would contact the Local about your situation and call you back. You mailed the payment as stated the following day. Stewart did not call you back, and you did not follow up with him or the Local. You did not attempt to attend the February 2009 membership meeting at which nominations were conducted.

As the facts show, no one denied you the opportunity to attend the nomination meeting, to nominate, or be nominated. Despite confirmation of your interpretation of the applicable dues rules from Stewart, your payment of dues for pay periods one, two, and four, and your payment through dues check-off for pay period three, you chose not to attend the meeting. Further, you did not avail yourself of the ability to have another member nominate you and submit your written acceptance pursuant to the election rules. The union did not deny you the opportunity to be nominated as you made no attempt to secure nomination.

For the reasons set forth above, the Department has concluded that there was no violation of Title IV of the LMRDA, and I have closed the file on this matter.

Sincerely,

Cynthia M. Downing  
Chief, Division of Enforcement

cc: William Burrus, President  
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