



December 28, 2011

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to the complaint that you filed with the U.S. Department of Labor on September 1, 2011, alleging that a violation of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the election of officers conducted by American Postal Workers Union (APWU) Local 7140, Northwest Illinois Area Local on April 26, 2011.

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

You allege that the Local failed to apply candidate qualifications as contained in the APWU National Constitution and Local Bylaws when it allowed Jacqueline Engelhart, [REDACTED] and [REDACTED] to run for office. Specifically, you contend that Engelhart, [REDACTED] and [REDACTED] were not in good standing because the APWU Dues Check Off (DCO) Reports reflected "NO DED," or no deduction, for each of the three candidates for pay periods in the year prior to the March 13, 2011 nominations.

Section 401(e) of the LMRDA provides, among other things, that "every member in good standing shall be eligible to be a candidate and to hold office (subject to . . . reasonable qualifications uniformly imposed)." Article X, Section 1 of the APWU National Constitution states that "to be eligible for nomination, the candidate must be a member in good standing." Article XI, Section 3 of the Local Bylaws states that "[n]o member of the Local shall be eligible for nomination or election to office unless he has been a member in good standing of the NWIAL for at least one (1) year preceding the nomination." Article III, Section 9 further states that "members shall be in good standing upon meeting the requirements for membership," and that "those accepted for membership shall pay full per capita tax, plus Local dues in accordance with Article XIV, Section 2," or \$23.69 per pay period.

The Local considers a member eligible to be a candidate if he or she has not served as a supervisor for an entire pay period during the year prior to nominations and is current in dues. The Local's candidacy qualification is not unreasonable. *See* 29 C.F.R. § 452.37.

The DCO reports list Engelhart as "NO DED" for the period February 27, 2010–March 11, 2011; █████ from February 27, 2010–September 23, 2010; and █████ from April 24, 2010–March 11, 2011. However, the investigation revealed that the DCO reports only reflect contributions collected by the employer, the United States Postal Service (USPS), through an automatic dues check off arrangement. They do not reflect contributions by members paying cash dues or contributions deducted by the Local on behalf of its officers.

Engelhart was employed as a full-time NWIAL officer in the year prior to nominations. The investigation confirmed that the Local deducted Engelhart's dues from her union paychecks without lapse. Because Engelhart did not pay dues through the USPS automatic dues check off arrangement, her payments were not reflected in the DCO reports. Similarly, █████ was employed as a full-time NWIAL officer until he returned to full-time status with the USPS on September 10, 2010. The investigation confirmed that dues were deducted from █████ paychecks without lapse until that time. █████ only lapse in payment occurred when the USPS did not pay him during pay period 20 of 2010. However, his dues for pay period 20 were subsequently collected in pay period 24. Thus, Engelhart and █████ were current in their dues payments despite any gaps in the DCO reports.

With respect to █████ the investigation revealed that she was employed part-time as a NWIAL officer. She was also employed as a full-time USPS employee until April 2010. At that time, the USPS eliminated a number of jobs for injured employees such as █████, forcing █████ and nearly 80 other union members onto workers' compensation. █████ was current in dues until she went on workers' compensation. She did not pay her dues while on workers' compensation because the APWU National and Local officers were unclear as to whether USPS employees who were involuntarily terminated were required to pay dues while receiving workers' compensation. In late 2010, upon the advice of the assistant to the APWU National Secretary Treasurer to pay her dues in order to remain in good standing, █████ verbally authorized the Local to deduct all unpaid dues from her NWIAL paychecks.

The Local deducted \$236.90 in dues arrearages from each of █████ January and February paychecks to cover pay periods 10 of 2010 through 3 of 2011 (or 20 pay periods). The investigation, however, discovered that the Local did not deduct dues payments from █████ March 2011 paycheck. Thus, unbeknownst to the Local or █████, at the time of nominations on March 13, 2011, █████ dues payments were only current through January 28, 2011. The Local's failure to deduct the dues after being authorized to do so should not be used to destroy █████ good standing. *See, generally* 29 U.S.C. § 481(e).

Moreover, the investigation found that the APWU has determined that members on workers' compensation do not have to pay dues to remain in good standing. [REDACTED] maintained good standing and was eligible to run for office.

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 in this matter.

Sincerely,

Patricia Fox  
Chief, Division of Enforcement

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

Jacqueline Engelhart, President  
American Postal Workers Union, Local 7140  
Northwest Illinois Area Local  
194 West Lake Street  
Elmhurst, IL 60126-1519

Christopher B. Wilkinson, Associate Solicitor  
Civil Rights and Labor-Management Division