



April 1, 2015

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed with the U.S. Department of Labor on August 22, 2014, 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 the American Postal Workers Union (APWU) Local 4635 on August 18, 2014.

Under Section 402(a) of the LMRDA, a member of a local organization who has exhausted the remedies available under the constitution and bylaws of such organization and of any parent body may file a complaint with the Secretary of Labor within one calendar month. Article 12, Section 8 of the APWU Constitution provides that a post-election protest must be filed with the election committee within 72 hours after the grievance arises. Any appeal of the election committee decision must be appealed to the National Election Appeals Committee in writing within 5 days of receipt of the decision appealed from. The decision of the National Election Appeals Committee is final.

The Department's investigation revealed that you filed a May 8, 2014 protest with the local election committee alleging that the [REDACTED] [REDACTED] interfered with the April 18, 2014 ballot tally by his presence at the tally. Your protest of this issue was not timely filed because it was not filed within 72 hours after the grievance arose as is required by the APWU Constitution. Consequently, you did not properly exhaust your internal remedies with respect to this allegation, and, as a result, the Secretary of Labor has no authority to consider the merits of this protest. See 29 U.S.C. § 482.

You also alleged that Secretary-Treasurer Fabiola Dominguez and then executive Vice President Sonia Canchola authorized eight hours of pay for [REDACTED] for "assisting" the "secretary-treasurer" on April 18, 2014. This allegation, in and of itself, does not raise a violation of the union officer election provisions of the LMRDA. 29 C.F.R. § 452.135.

For the reasons set forth above, I have closed the file regarding this matter.

Sincerely,

Patricia Fox, Chief
Division of Enforcement

cc: Ms. Sonia Canchola, President
Postal Workers CAL 4635
129 East A Street
Upland, CA 91786

Mr. Mark Dimondstein, President
American Postal Workers Union
1300 L Street, NW
Washington, D.C. 20005

Christopher Wilkinson, Associate Solicitor for Civil Rights Labor Management



April 1, 2015



Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed with the U.S. Department of Labor on August 22, 2014, 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 the American Postal Workers Union (APWU) Local 4635 on August 18, 2014.

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

You alleged that members did not receive duplicate ballots even after making requests for them. The investigation revealed that a duplicate ballot request procedure was posted on the designated union bulletin boards at each of the postal facilities. The duplicate ballot procedure required that in order to request a duplicate ballot, members had to contact the election committee or the union office, if the member did not receive a ballot. You did not provide the names of those who requested a duplicate ballot but did not receive one.

The investigation revealed the union timely and properly handled duplicate ballot requests. The investigation revealed that whenever a member contacted the election committee or the union, the election committee returned the members' phone calls and obtained an updated mailing address from the member. All duplicate ballot requests were forwarded to AAA by email and processed by AAA. The deadline for requesting a duplicate ballot was April 16, 2014. All ballots were to be returned to the post office box by 9:00 a.m. on April 18, 2014.

The investigation revealed that the election committee forwarded 89 duplicate ballot requests to the AAA Coordinator by email and that AAA mailed 89 duplicate ballots to members. A log was maintained by the AAA coordinator, but she did not start keeping the log until she had mailed seven duplicate ballots. There were 82 names on the AAA log. Of those 89 members who were mailed a duplicate ballot, 29 voted in the election. Also, as AAA received undeliverable ballots, AAA contacted the union to obtain correct mailing addresses and mailed a new ballot package to updated addresses. Of 44 undeliverable ballot packages, 33 members were on the AAA log as having been mailed a duplicate ballot in the election and 11 members had both old and new ballot packages returned as undeliverable. The voter participation rate for

the election was high with 1,216 ballots cast. The investigation did not support your allegation that members who made requests for duplicate ballots were not mailed ballots. There was no violation.

Under Section 402(a) of the LMRDA, a member of a local organization who has exhausted the remedies available under the constitution and bylaws of such organization and of any parent body may file a complaint with the Secretary of Labor within one calendar month. Article 12, Section 8 of the APWU Constitution provides that a post-election protest must be filed with the election committee within 72 hours after the grievance arises. Any appeal of the election committee decision must be appealed to the National Election Committee (NEAC) in writing within 5 days of receipt of the decision appealed from. The decision of the NEAC is final.

The investigation revealed that you filed a protest with the NEAC on April 25, 2014, alleging that some candidates campaigned on union time because they failed to submit their leave slips to the election committee by April 4, 2014. Also, on May 8, 2014, you filed a protest with the NEAC alleging that [REDACTED] interfered with the April 18, 2014 ballot tally by his presence at the tally. Your protests of these issues were not timely filed because they were not filed within 72 hours after the grievance arose as required by the APWU Constitution. Consequently, you did not properly exhaust your internal remedies, and, as a result, the Secretary of Labor has no authority to consider the merits of these two protests. See 29 U.S.C. § 482.

You also wrote to the NEAC to complain of issues associated with the new officers terminating the local election committee after the election. None of these issues involved the conduct of the April 18, 2014 election. Consequently, they do not impact rights under Title IV of the LMRDA.

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

Sincerely,

Patricia Fox
Chief, Division of Enforcement

cc: Ms. Sonia Canchola, President
Postal Workers CAL 4635
129 East A Street
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