



April 24, 2018

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on May 18, 2017, 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, California Area Local, Local 4635, on April 28, 2017.

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 that may have affected the outcome of the election. Following is an explanation of this conclusion.

Initially, you alleged that the nominating committee chairperson violated Local 4635's constitution by ruling on the eligibility of a nominee who was nominated for the same office as the nominating committee (NC) chairperson. Section 401(e) of the LMRDA requires a union to conduct its election of officers in accordance with the union's constitution and bylaws. 29 C.F.R. § 452.2. Article 12(5)(c) of Local 4635's constitution prohibits a nominating committee member from ruling on the eligibility of a nominee seeking nomination for the same office as the nominating committee member. The investigation showed that during the election the NC chairperson and one other member were nominated for the office of secretary treasurer. While the constitution prohibited the NC chairperson from ruling on that member's eligibility, the investigation showed that the election committee, not the nominating committee, ruled on that member's eligibility, disqualifying him from candidacy. Neither the local's constitution nor the LMRDA was violated.

You also alleged that this same member was improperly disqualified and left off the ballot, in violation of Local 4635's constitution. Section 401(e) of the LMRDA provides that every member in good standing is eligible for candidacy, subject to reasonable qualifications uniformly applied. 29 C.F.R. § 452.35. The investigation disclosed that the member was disqualified from candidacy for failing to satisfy the meeting

attendance requirement prescribed in Local 4635's constitution. Article XII (6)(B) of the local constitution provides that a member must have attended at least two union meetings during the three years preceding the election to qualify for candidacy. During the investigation, the disqualified member stated that he met this requirement by attending the July 2016 and October 2016 meetings, and the January 2017 nomination meeting.

Members were required to sign the meeting attendance roster to verify their attendance at a meeting. The Department's review of the meeting attendance records for the three years preceding the election showed that the member only signed the meeting attendance roster for the January 2017 nominations meeting. Thus, the member was not entitled to be counted as attending the July and October meetings, and was properly disqualified from running and kept off the ballot. The LMRDA was not violated.

Next, you alleged that the nominating committee violated Local 4635's constitution by permitting nominees to run for office who were not present at the January 2017 nominating meeting to accept their nomination in writing prior to the close of the nominations period. Local 4635's constitution requires nominees to accept nominations in person at the nominations meeting or to accept nominations in writing. The nominations notice stated that the deadline for accepting nominations in writing was February 11, 2017. The investigation disclosed that the nominees who were not present at the nominating meeting and were permitted to run for office submitted their acceptance letters to the nominating committee prior to that deadline. Neither the local's constitution nor the LMRDA was violated.

In addition, you alleged that the union violated Local 4635's constitution by permitting four candidates to serve on the election committee. Local 4635's constitution provides that no election committee member may be a "candidate for election" while serving on the committee. The investigation disclosed that the four candidates who served on the election committee were elected to their offices by acclamation at the January 2017 nominations meeting. The election committee was also appointed at that meeting. While Local 4635's constitution is silent concerning whether candidates who are elected by acclamation remain "candidates for election" and prohibited from serving on the election committee. The union's interpretation that they do not is not clearly unreasonable, and the Department will therefore accept it. 29 U.S.C. 452.3. In any event, there is no evidence that the integrity of the election process was compromised by allowing these individuals to serve on that committee. Neither the local's constitution nor the LMRDA was violated.

You also alleged that the nominating committee violated Local 4635's constitution by permitting a candidate to simultaneously run for chief steward of the Sierra Madre branch and the office of secretary treasurer. Article VII, Section 6(C) of Local 4635's constitution provides, "candidates may be nominated for only one office, but with the exception of the elected general officers, may be nominated for chief steward of their branch." During the investigation union officials stated that this provision permits a

candidate to be nominated for only one "officer" position. Article VI of the Local 4635 constitution sets forth the "officers" of the local. These officers include the president; executive vice president; secretary treasurer; vice president; chief, second and third trustees; and a director for each of the three craft divisions. The chief steward position is not listed as an "officer" of Local 4635. The nominating committee's interpretation of the constitution is not clearly unreasonable and will be accepted by the Department. Neither the local's constitution nor the LMRDA was violated. In any event, the candidate was unopposed for the chief steward position and lost her bid for the office of secretary treasurer. Even if there was a violation, it did not have an effect on the outcome of the election.

You further alleged that the NC chairperson violated Local 4635's constitution by ruling on a member's eligibility for chief steward of the Mira Loma branch. Local 4635's constitution prohibits a nominating committee member from ruling on the eligibility of a member seeking nomination for the same office as the nominating committee member. The investigation disclosed that the NC chairperson was nominated unopposed for chief steward of the Sierra Madre branch. Thus, the NC chairperson was not running for the same office and was not prohibited from ruling on the member's eligibility for chief steward of the Mira Loma branch. Neither the local's constitution nor the LMRDA was violated.

In connection with this allegation regarding the NC chairperson's ruling on a member's eligibility for a chief steward position, you alleged that the member's disqualification from candidacy was unfair because the member had been employed for only seven months and was nominated unopposed for the chief steward position. The investigation disclosed that the member was disqualified from candidacy for failing to satisfy the meeting attendance requirement prescribed in Local 4635's constitution. A member was required to meet that requirement to qualify for candidacy, regardless of the member's length of employment. Further, section 401(e) of the LMRDA requires a union to impose reasonable candidacy qualifications in a uniform manner. 29 C.F.R. § 452.53. Thus, the union was required to apply the meeting attendance requirement to opposed as well as unopposed nominees for union office, including the member in question. Neither the local's constitution nor the LMRDA was violated.

You further alleged that the union violated Local 4635's constitution when the vice president of the retiree chapter was permitted to run for trustee. Local 4635's constitution provides that a Local 4635 trustee may not hold any other elected officer position while serving as trustee. The investigation disclosed that the vice president of the retiree chapter is not an officer position under Local 4635's constitution. The LMRDA was not violated.

Finally, you raised two issues in your complaint to the Department that you did not raise with the union. Thus, you failed to comply with section 402(a) of the LMRDA. As result, these issues are not properly before the Department and are dismissed.

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 in this matter.

Sincerely,



Sharon Hanley
Chief, Division of Enforcement

cc: Mark Dimondstein, President
American Postal Workers Union
1300 L Street NW
Washington, DC 20005

David Gordillo, President
APWU Local 4635
129 East A Street
Upland, California 91786