



January 11, 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 July 14, 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.

You alleged that the Local failed to provide you with adequate notice of the March 2, 2009 candidates' meeting. You contended that as a result of this failure you did not learn of the meeting until March 18, 2009, and were thus denied your right to designate yourself and other candidates as a slate on the ballot. The Department conducted an investigation of your allegation. As a result of the investigation, the Department has concluded that no violation occurred.

The Act does not establish a timeline or method for notifying candidates of a candidates' meeting. However, among the protections in the Act is section 401(c)'s requirement that "adequate safeguards to insure a fair election shall be provided . . ." See 29 U.S.C § 481(c). With this requirement, "[a] labor organization's wide discretion regarding the conduct of its elections is . . . circumscribed by a general rule of fairness." See 29 C.F.R. § 452.110. Pursuant to the adequate safeguards provision, unions must conduct their elections in a manner that does not violate the fundamental precepts of fairness that are essential to the selection of leaders through a democratic electoral process. See *Donovan v. Graphic Arts Int'l Union*, 11 8 LRRM 2092, 2096 (C.D. 111. 1984). Adequate safeguards, as contemplated by the Act, specifically refer to the mechanical and procedural aspects of running an election. See *Brock v. Writers Guild of America, West, Inc.*, 762 F.2d 1349, 1354 (9th Cir. 1985). Violations of the adequate safeguards provision are determined on a case-by-case basis.

In this case, the Department's investigation did not substantiate your allegation. The investigation revealed that the Local posted notice of the candidates' meeting on bulletin boards in February and published it in the January and February 2009 Local newsletters. No candidates were mailed a separate notice for the meeting. Further, the investigation revealed that the Local's election rules allowed for slate designations to be made in writing at any point between the nomination meeting on February 18, 2009 and the candidates' meeting on March 2, 2009. Therefore, you also had the opportunity to designate your slate outside of the candidates' meeting.

Finally, the investigation revealed that the Local constitution requires that a group of candidates representing at least 60% of the offices to be filled in an election are necessary to run as a slate. You stated that you intended to run on a slate with two other officer candidates and four trustee candidates - comprising, at most, 25% of the 28 total positions. Thus, regardless of your allegation concerning the adequacy of the notice of the candidates meeting, you would not have met the requirements for slate designation.


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
American Postal Workers Union, AFL-CIO
1300 L Street, NW
Washington, DC 20005

Clarice Torrence, President
APWU Local 10, New York Metro Area
350 West 31st Street, 3rd Floor
New York, NY 10001

, Associate Solicitor for Civil Rights and Labor-Management