



January 22, 2010



Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed with the Department of Labor on August 3, 2009. In the complaint, you alleged that Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (Act), 29 U.S.C. §§ 481-484, was violated in connection with the election of union officers conducted on April 18, 2009, by the National Postal Professional Nurses (local), American Postal Workers Union (APWU).

The Department of Labor (Department) conducted an investigation of your allegations. As a result of the investigation, the Department has concluded, with respect to the specific allegations, that the Act was not violated.

You alleged that an official of the APWU sent an email to select members shortly after the tally results were announced, even though he was not a member of the local's election committee. Section 401(e) of the Act, 29 U.S.C. § 481(e), requires a union to conduct its election of union officers in accordance with the constitution and bylaws of such labor organization. The investigation disclosed that Article VII, Section 3 of the local's constitution and bylaws states, "[t]he [Election] Committee shall report the election results to the general membership." The investigation disclosed that, although an APWU official sent an email to various recipients on April 18, 2009, announcing the election results, the election committee sent a letter to the membership on April 20, 2009, announcing those same results, as required by the local's constitution and bylaws. Neither the local's constitution and bylaws nor the Act was violated.

You alleged that the election committee did not provide specific instructions on how the ballots should be mailed and the ballot instructions only indicated that a voter should vote the ballot, put it in the unmarked secret ballot envelope, and place it in the postage paid return envelope for mailing. Section 401(c) of the Act, 29 U.S.C. § 481(c), provides that a union must provide adequate safeguards to insure a fair election. The investigation disclosed that the ballot instructions indicated that voters should use the postage paid return

envelope that was included in the ballot package to mail back their voted ballots. Instead of using that envelope to mail back your ballot, you sent your ballot by certified mail. The investigation disclosed that the post office mails back all certified mail to the sender if the intended receiver does not pick up the mail within fifteen days after such mail arrives at the post office. The investigation also confirmed that the election committee properly did not access the post office box secured for the return of the voted ballots until April 18, 2009, when they picked up the ballots for tallying. The investigation showed that the post office returned all certified mail addressed to the local before the ballots were retrieved from the post office for tallying, including the ballot you mailed by certified mail. As a result, your ballot was not included in the ballots that were retrieved from the post office or in the ballot tally. However, the ballot instructions clearly indicated that voters should use the postage paid return envelope that was included in the ballot package to mail back their voted ballots. The Act was not violated.

The remaining allegations you raised are not addressed in this Statement of Reasons because they were not properly exhausted in accordance with the remedies available under the union's constitution and bylaws.


For the reasons set forth above, it is concluded that the Act was not violated, and I have closed the file on this matter.

Sincerely,

Cynthia M. Downing
Chief, Division of Enforcement
Office of Labor-Management Standards

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