February 23, 2016

Dear ██████████ :

This Statement of Reasons is in response to the complaint you filed with the
Department of Labor (Department) on July 25, 2015, alleging that violations of Title IV
of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) occurred in
connection with the election of officers for the American Postal Workers Union Local 64
completed on March 26, 2015.

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

During the Department's investigation, the APWU asserted that you did not properly
protest the election to the union and, therefore, your complaint was not properly before
the Secretary. Under Section 402(a)(2) of the LMRDA, a member of a labor organization
who has invoked available remedies under the constitution and bylaws of the
organization without obtaining a final decision within three calendar months may file a
complaint with the Secretary within one calendar month thereafter alleging a violation
of any provision of section 401. Article 12, Section 8, of the APWU Constitution and
Bylaws provide that post-election protests are to be filed with the Local Election
Committee (LEC) within 72 hours after the grievance arises and any appeal of the
election committee decision must be filed with the National Election Appeals
Committee (NEAC) within five days of receipt of the decision of the LEC. The decision
of the NEAC is final.

The Department's investigation revealed that on March 26, 2015, the day of the election,
you wrote to the election judges and stated that you were "contesting the results and
margin of votes of the APWU Local 64 Election" that took place on that day. Your
protest contained questions regarding the conduct of the election and also requested
copies of certain documents. By letter dated April 1, 2015, the LEC asked you to
provide more information related to your March 26, 2015 letter, and also informed you

that the answers to most of your questions could be found in the local constitution. By letter dated April 20, 2015, you sent a typed version of your March 26, 2015 letter to the NEAC. By letter dated May 12, 2015, the NEAC acknowledged the receipt of your appeal and requested that both you and the LEC submit additional information. By letter dated May 21, 2015, the LEC denied your protest because you did not provide the additional information requested by the LEC. Neither the LEC nor the NEAC responded to the substance of your protest.

The investigation revealed that the NEAC did not consider your internal complaint to be a proper protest because you did not present any specific protest in your letters to the LEC. However, the Department finds your initial letter to the LEC was sufficient to inform the LEC that you were contesting the outcome of the election for specific reasons and, thus, satisfied the statutory requirement that you invoke the union's available remedies. Further, your protest to the Secretary was filed properly under section 402(a)(2) of the LMRDA because you invoked your available remedies on March 26, 2015, without obtaining a final decision within three calendar months thereafter from the NEAC, and you filed a complaint with the Secretary within one month thereafter on July 25, 2015.

You alleged that members were denied the opportunity to vote because the union failed to mail ballots to all members. Specifically, you assert that ▮▮▮▮▮▮ and ▮▮▮ ▮▮▮▮▮ did not receive ballots. Section 401(e) of the LMRDA provides that members in good standing shall have the right to vote. Here, the Department's investigation established that the union's election company, American Arbitration Association (AAA), mailed ballot packages to 2,684 members. Fifty-one (51) ballot packages were returned as undeliverable, and AAA mailed duplicate ballots to 18 of these members. The investigation also established that a duplicate ballot procedure was available to members who did not receive their ballots. The Election Notice, which was posted on bulletin boards at worksites and mailed to members' last known addresses during the second week of March 2015, instructed members to contact the LEC to request a duplicate ballot. The Local thus made sufficient efforts to provide members with the opportunity to vote. With respect to the two members you identified, the investigation found that neither timely requested a duplicate ballot. These members were not denied the opportunity to vote. There was no violation.

You also alleged that the LEC violated the name placement order on the ballot and that ▮▮▮▮▮▮▮ was wrongly listed as an incumbent. Under Article 9, Section 4, of the Local's Constitution and Bylaws, the ballots shall bear the names of all regularly nominated candidates in order of incumbency and in order of nomination. The Local's longstanding practice has been to list incumbents first, followed by other nominees in the order in which they were nominated. The investigation revealed that the Local listed ▮▮▮▮▮▮▮, Vincent Arrington, the incumbent Secretary-Treasurer, on the ballot first. The investigation established that, following the resignation of Secretary-Treasurer ▮▮▮▮▮▮ on October 29, 2013, Arrington was properly appointed and approved by the Executive Board on November 20, 2013 to complete the remaining

term of office. On January 25, 2014, the Local's general membership approved the appointment of Arrington. Therefore, the Local properly identified and listed Arrington as the incumbent on the ballot. There was no violation.

You also alleged that you were denied the right to inspect the Change of Address (COA) and Dues Check-Off (DCO) lists. Section 401(c) of the LMRDA provides that every candidate for office has a right, once within 30 days *prior to* any election in which he is a candidate, to inspect a list containing the names and last known addresses of all members of the labor organization. You acknowledged that you knew of your right to inspect a list of members, but you did not request to do so within 30 days prior to the election. There was no violation.

You also alleged that election results were posted late. Your allegation was not substantiated. Section 401(e) of the LMRDA provides that the votes cast by members of each local labor organization shall be counted, and the results published. The investigation revealed that an AAA representative read the results to the observers immediately after the tally on March 26, 2015. On March 27, 2015, the AAA representative mailed a certification of results to the Local. Thereafter, the Local forwarded the certification to the facilities stewards and/or points of contact to post on the Local's bulletin boards at over 60 worksites. On March 28, 2015, LEC Chairperson ▌▌▌▌▌ read the results at the general membership meeting. Local President Roy Dumas confirmed that he posted the certification of results the week of April 1, 2015 at the three largest facilities. There was no violation.

Finally, you raised two other issues (retirees running for office and the appointment of election judges) that were not investigated because they were not timely invoked and exhausted in accordance with the union election protest procedures, as required by section 402(a) of the LMRDA. The Secretary lacks the authority to consider the merits of these issues because they were first raised in your appeal to the NEAC. 29 C.F.R. §452.135(a).

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,

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Chief, Division of Enforcement

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