



May 11, 2017

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on October 11, 2016, 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 (APWU) on October 5-6, 2016.

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 there was no violation of the Act that may have affected the outcome of the election.

You alleged that the incumbent and winning candidate for APWU Health Plan Director (Director) used union funds, funds of the APWU Health Plan, to campaign. Section 401(g) of the LMRDA prohibits the use of union funds to promote the candidacy of any person in an election of union officers. The investigation disclosed that during the election the Director attended various union-sponsored events. During these events, bottles of water that contained labels with the words "APWU, Health Plan, Together, Better Health" and the Director's name printed on them were distributed to the attendees. The investigation showed that the APWU Health Plan funds paid for the water.

The Director stated during the investigation that the wording on the label was not intended as an endorsement of his candidacy, but was a marketing tool to encourage members to enroll in the APWU Health Plan. However, the Department of Labor investigation revealed that the labels did not contain any contact information for the health plan or other encouragement to enroll in the plan. Further, the Director did not pass out any literature or other information concerning the health plan to the attendees during the union events.

Section 402(c) of the LMRDA provides that an election will not be overturned unless a violation may have affected its outcome. The investigation disclosed that the APWU Health Plan purchased 2,328 bottles of water that contained the labels. There were four candidates for the office of APWU Health Plan Director, including you. You received 4,505 votes and the other two candidates, [REDACTED] received 6,512 and 6,380 votes respectively, for a total of 17,397 votes. The Director received 22,057 votes, 4,660 votes more than the combined total of all the other candidates. Thus, even if the distribution of the bottles of water constituted campaigning and thus violated the LMRDA, the number of water bottles distributed is far less than the Director's margin of victory; therefore, any violation could not have affected the out of the election.

Finally, your complaint to the Department raised an allegation that was not initially raised to the union as required by the APWU Constitution and the requirements of the LMRDA. 29 U.S.C. § 482. Therefore, the Department lacks the authority to consider this issue and it is dismissed. 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 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

Beverly Dankowitz, Associate Solicitor for Civil Rights and Labor-Management