



March 5 , 2019

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to the complaint you filed with the United States Department of Labor (Department) on June 27, 2018. The complaint alleged that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 ("LMRDA" or "Act"), occurred in connection with the election of officers, conducted by the American Postal Workers Union, AFL-CIO, Local 251 ("Local 251" or "union"), which was completed on March 22, 2018.

The 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 LMRDA that may have affected the outcome of the election.

You alleged that Local 251 improperly declared you ineligible to run for the union offices of vice president, secretary-treasurer, and assistant secretary-treasurer as the result of the internal charges filed against you in July 2017. Specifically, you claimed that you could have nominated someone else for the position of secretary-treasurer, if the union had notified you immediately of your ineligibility. Section 401(e) of the LMRDA requires that unions provide members with a reasonable opportunity for the nomination of candidates and that every member in good standing shall be eligible to be a candidate and to hold office, subject to reasonable qualifications uniformly imposed.

The Department's investigation revealed that prior to the election, on August 20, 2017, the union held a hearing where you were accused and found guilty of five charges involving the misappropriation of union funds. You claimed that you did not attend the August 20, 2017 hearing because you had not received a hearing notice and therefore were unaware of the hearing. However, the record reflects that you had knowledge of the hearing, including the date, time, and place it was scheduled, because

the postal service tracking records indicate that the hearing notice was delivered to your home address on July 12, 2017, and because prior to the hearing date, you contested the hearing in your July 21, 2017 letter to the union. Following the August 20, 2017 hearing, on September 19, 2017 at a union meeting for which you were present, the membership, by a majority vote, upheld the hearing committee's guilty verdict regarding your failure to accurately report to the membership the financial condition of the local. The membership imposed one of the recommended penalties, which was to declare you ineligible to run for any financial position in Local 251. Shortly before the September 19, 2017 membership meeting, the hearing committee sent you a report, notifying you that you were no longer eligible to run for any fiduciary position within the union. According to the postal service tracking records, the report was delivered to your home address on September 12, 2017 and you signed for the delivery, confirming your receipt. Despite the fact that you were previously informed of your ineligibility to run for secretary-treasurer, or any other fiduciary office, you nevertheless accepted nomination for secretary-treasurer at the February 20, 2018 nominations meeting. On February 22, 2018, the election committee confirmed and advised that you were ineligible to run for the secretary-treasurer position. Accordingly, the investigation showed that during the nominations meeting you were aware that you could not run for a fiduciary office and had the opportunity to nominate a candidate who was eligible instead, but failed to do so. There was no violation of the Act.

You alleged that because Local 251 failed to follow the APWU's constitution and bylaws during the September 19, 2017 membership vote, Local 251 improperly barred you from running for any financial position in Local 251. Section 401(e) of the Act also requires that officer elections must be conducted in accordance with the union's constitution and bylaws insofar as they are not inconsistent with the Act. Article 15, section (k) of the APWU Constitution and Bylaws provides, in pertinent part, that when there is a recommendation to expel, suspend without pay in excess of sixty days, or terminate an elected officer, "an affirmative vote to *expel* from office or terminate the *membership* of the officer cannot take effect unless confirmed by two-thirds (2/3) of those voting in a referendum on the recommended disciplinary action." Art. 15, Sect. (k), APWU Constitution & Bylaws (emphasis added).

As mentioned above, the Department's investigation found that at the September 19, 2017 membership meeting, by a majority vote, the membership upheld the hearing committee's guilty verdict recommendation that you failed to accurately report to the membership the financial condition of the local. By a vote of 35 to 34, the membership imposed the recommended penalty that you be deemed ineligible to run for any financial position in Local 251. The Constitution requires two-thirds vote for membership termination or expulsion from office - not candidate ineligibility. Given that this particular penalty did not terminate your membership from the union or expel

you from an office that you already held, the union did not need a two-thirds vote for the penalty to take effect. Accordingly, there was no violation of the LMRDA.

For the reasons set forth above, it is concluded that there was no violation of the LMRDA that may have affected the outcome of the election. Accordingly, the office has closed the file on this matter.

Sincerely,



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Chief, Division of Enforcement

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