

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

UNITED STATES POSTAL SERVICE

and

**AMERICAN POSTAL WORKERS UNION,
PLAYGROUND AREA LOCAL 5643**

Cases 15-CA-19535(P)
15-CA-19545(P)
15-CA-19600(P)
15-CA-19610(P)

DECISION AND ORDER

Statement of the Cases

On February 10, 2011, United States Postal Service (the Respondent), American Postal Workers Union, Playground Area Local 5643 (the Local Union), and the Acting General Counsel of the National Labor Relations Board entered into a Formal Settlement Stipulation, subject to the Board's approval, providing for the entry of a consent order by the Board and a consent judgment by any appropriate United States Court of Appeals. The parties waived all further and other proceedings before the Board to which they may be entitled under the National Labor Relations Act, as amended, and the Board's Rules and Regulations, and the Respondent waived its right to contest the entry of a consent judgment or to receive further notice of the application therefor.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Formal Settlement Stipulation is approved and made a part of the record, and the proceeding is transferred to and continued before the Board in Washington, D.C., for the entry of a Decision and Order pursuant to the provisions of the Formal Settlement Stipulation.¹

Based on the Formal Settlement Stipulation and the entire record, the Board makes the following:

¹ We note that the remedy to which the parties have agreed is not fully consistent with previous broad orders that the Board has issued against the Respondent in cases alleging that the Respondent has violated Sec. 8(a)(5) of the Act by failing and refusing to provide relevant information. See, e.g., *United States Postal Service*, 28-CA-17383 et al., unpublished order issued November 4, 2002, enfd. Case 02-9587 (10th Cir. 2003); and *United States Postal Service*, 345 NLRB 426 (2005), enfd. 486 F.3d 683 (10th Cir. 2007). These broad orders, as enforced by the United States Courts of Appeals, remain in effect. However, because all parties have agreed to the terms of this Formal Settlement Stipulation, we have determined that approval of the parties' settlement will effectuate the purposes of the Act. The Board's approval of this stipulation does not modify these orders in any respect.

Findings of Fact

1. The Employer's business

The Respondent provides postal services for the United States and operates various facilities throughout the United States in the performance of that function, including the facility located at 90 North Palm Boulevard, Niceville, Florida 32578, the only facility at issue herein.

The Board has jurisdiction over the Respondent and these matters by virtue of Section 1209 of the Postal Reorganization Act, 39 U.S.C. Section 101 et seq. (the PRA).

2. The labor organization involved

The Local Union is a labor organization within the meaning of Section 2(5) of the Act, and acts as local agent of the exclusive bargaining representative and National Union known as the American Postal Workers Union, AFL-CIO (APWU).

ORDER

Based on the above findings of fact, the Formal Settlement Stipulation, and the entire record and pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board orders that:

The Respondent, United States Postal Service, 90 North Palm Boulevard, Niceville, Florida, 32578, its officers, agents, successors, and assigns shall

1. Cease and desist from

(a) Harassing employees because they engaged in union activities, filed unfair labor practice charges with the National Labor Relations Board, testified in Board proceedings, and/or engaged in other protected concerted activities for the employees' mutual aid and protection, or to discourage other employees from engaging in such activities.

(b) Harassing employees by requiring them to submit all their leave requests to the Postmaster and have all their leave requests approved by the Postmaster because they engaged in union activities, filed unfair labor practice charges with the Board, testified in Board proceedings, and/or engaged in other protected concerted activities for the employees' mutual aid and protection, or to discourage other employees from engaging in such activities.

(c) Harassing employees by requiring them to submit documentation for all requests for sick leave prior to sick leave being approved because they engaged in union activities, filed unfair labor practice charges with the Board, testified in Board proceedings, and/or engaged in other protected concerted activities for the employees'

mutual aid and protection, or to discourage other employees from engaging in such activities.

(d) Disciplining, suspending, or otherwise discriminating against employees because they engaged in union activities and/or engaged in other protected concerted activities for the employees' mutual aid and protection, or to discourage other employees from engaging in such activities.

(e) Failing and refusing to bargain in good faith with the exclusive representative of its APWU-represented employees in a unit appropriate for collective bargaining by failing to notify and bargain in good faith with either the National Union or with the Local Union as local agent of the National Union about any proposed changes in wages, hours, and working conditions of employees before putting such changes into effect.

(f) Failing and refusing to bargain in good faith with the exclusive representative of its APWU-represented employees in a unit appropriate for collective bargaining by requiring employees to submit documentation for all requested sick leave in contradiction to the terms and conditions of the collective-bargaining agreement without first notifying and bargaining in good faith either with the National Union or with the Local Union as local agent of the National Union.

(g) Failing and refusing to bargain in good faith with the exclusive representative of its APWU-represented employees in a unit appropriate for collective bargaining by failing and refusing to furnish the Local Union, in a timely manner, information requested by the Local Union which is relevant to and necessary for the Local Union's representation of employees as local agent of the National Union.

(h) Failing and refusing to bargain in good faith with the exclusive representative of its APWU-represented employees in a unit appropriate for collective bargaining by failing to provide the Local Union with information requested by the Local Union which is relevant to and necessary for the Local Union's representation of employees as local agent of the National Union.

(i) Failing and refusing to bargain in good faith with the exclusive representative of its APWU-represented employees in a unit appropriate for collective bargaining by failing to reasonably and diligently search for information requested by the Local Union which is relevant to and necessary for the Local Union's representation of employees as local agent of the National Union.

(j) In any like manner interfering with, restraining, or coercing employees in the exercise of the rights to self-organization, to form, join, or assist any labor organization, to bargain collectively through representatives of their own choosing, to file charges with or give testimony before the Board, or to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any and all such activities.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Within 14 days from the date of the Board's Order, cancel the unilateral changes in the terms and conditions of employment of unit employees by informing, in writing, the Local Union that employees who had been placed on restricted sick leave in contradiction to the terms and conditions of the collective-bargaining agreement do not have to submit documentation for all their requests for sick leave prior to the sick leave being approved and that the Respondent should return to the practice of placing employees on restricted sick leave that was in effect prior to March 4, 2010.

(b) Within 14 days from the date of the Board's Order, cancel and remove from Robert Beale's records the Letter of Warning (LOW) and any reference to the Letter of Warning issued to Beale on or about March 5, 2010, and within 3 days thereafter notify him in writing that the Letter of Warning has been cancelled and removed from his records and that it will not be used against him in any way in the future.

(c) Within 14 days from the date of the Board's Order, cancel and remove from Robert Beale's records the Notice of Seven (7) Day Suspension and any reference to the Notice of Seven (7) Day Suspension issued to him on or about March 15, 2010, and within 3 days thereafter notify him in writing that the Notice of Seven (7) Day Suspension has been cancelled and removed from his records and that it will not be used against him in any way in the future.

(d) Cease failing and refusing to bargain in good faith with the exclusive representative of its APWU-represented employees by informing, in writing, the Local Union as local agent of the National Union that the Respondent will timely provide it with relevant requested information in the future and that the Local Union may request relevant information from the Respondent.

(e) Within 14 days from the date of the Board's Order, provide the Local Union with copies of the disciplinary records for all discipline issued to bargaining unit and non-unit employees at the Niceville, Florida facility during the period February 15, 2010 to April 29, 2010.

(f) Within 14 days from the date of the Board's Order, provide the Local Union with copies of all the bid jobs for all the clerks who were employed at the Niceville, Florida facility on May 25, 2010.

(g) Preserve and, within 14 days of a request, make available to the Board or its agents for examination and copying, all records necessary to determine that the terms of this Order have been complied with.

(h) Within 14 days of service by the Region, post at its Niceville, Florida facility copies of the attached notice marked "Appendix A." Copies of the notice, on forms provided by Region 15, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are

customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. The Respondent will take reasonable steps to ensure that the notices are not altered, defaced or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at the closed facility at any time since January 1, 2010.

(i) Within 14 days of service by the Region, the Respondent shall also post at the post office facilities in Florida located in Destin, Miramar Beach, Mary Esther, Fort Walton Beach, Shalimar, and Eglin, copies of the attached notice marked "Appendix B." Copies of the notice, on forms provided by Region 15, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. The Respondent will take reasonable steps to ensure that the notices are not altered, defaced or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed any of the facilities, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at the closed facility at any time since January 1, 2010.

(j) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C., May 2, 2011.

Wilma B. Liebman, Chairman

Craig Becker, Member

Mark Gaston Pearce Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

APPENDIX A

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

PURSUANT TO A STIPULATION PROVIDING FOR A BOARD ORDER AND A CONSENT JUDGMENT OF ANY APPROPRIATE UNITED STATES COURT OF APPEALS

FEDERAL LAW GIVES YOU THE RIGHT TO:

- Form, join or assist a union;
- Choose representatives to bargain with us on your behalf;
- Act together with other employees for your benefit and protection;
- Choose not to engage in any of these protected activities.

WE WILL NOT interfere with, restrain, or coerce you in regards to the exercise of these rights. More specifically,

WE WILL NOT harass you because you filed charges with the National Labor Relations Board (Board) and/or provided evidence to the Board.

WE WILL NOT harass you because of your activities on behalf of the American Postal Workers Union, AFL-CIO (APWU) (National Union), American Postal Workers Union, Playground Area Local 5643 (Local Union), or any other labor organization.

WE WILL NOT harass you because you engaged in activities protected by the National Labor Relations Act (Act) or to discourage other employees from engaging in such activities.

WE WILL NOT require you to submit all your leave requests and have all your leave requests approved by the Postmaster because you filed charges with the Board and/or provided evidence to the Board.

WE WILL NOT require you to submit all your leave requests and have all your leave requests approved by the Postmaster because of your activities on behalf of the National Union, Local Union, or any other labor organization.

WE WILL NOT require you to submit all your leave requests and have all your leave requests approved by the Postmaster because you engaged in activities protected by the Act or to discourage other employees from engaging in such activities.

WE WILL NOT require you to submit documentation for all requests for sick leave prior to sick leave being approved because you filed charges with the Board and/or provided evidence to the Board.

WE WILL NOT require you to submit documentation for all requests for sick leave prior to sick leave being approved because of your activities on behalf of the National Union, Local Union, or any other labor organization.

WE WILL NOT require you to submit documentation for all requests for sick leave prior to sick leave being approved because you engaged in activities protected by the Act or to discourage other employees from engaging in such activities.

WE WILL NOT discipline, suspend, or otherwise discriminate against you because of your activities on behalf of the National Union, Local Union, or any other labor organization.

WE WILL NOT discipline, suspend, or otherwise discriminate against you because you engaged in activities protected by the Act or to discourage other employees from engaging in such activities.

WE WILL NOT refuse to bargain in good faith with the National Union (American Postal Workers Union, AFL-CIO, as the exclusive collective-bargaining representative of our employees in the following appropriate unit:

All employees in the bargaining unit for which the American Postal Workers Union, AFL-CIO, has been recognized and certified at the national level, excluding managerial and supervisory personnel, professional employees, employees engaged in personnel work in other than a purely non-confidential clerical capacity, security guards as defined in Public Law 91-375, 1201(2), all Postal Inspection Service Employees, employees in the supplemental work force as defined in Article 7, Rural Letter Carriers, Mail handlers, and Letter carriers.

WE WILL NOT refuse to bargain in good faith with the Local Union (American Postal Workers Union, Playground Area Local 5643) as the National Union's local agent for administering the collective-bargaining agreement at the Employer's Niceville, Florida facilities.

WE WILL NOT refuse to first meet and bargain in good faith with either the National Union or with the Local Union as local agent of the National Union until reaching an agreement or a good faith impasse about any proposed changes in APWU-represented employees' wages, hours, and working conditions before putting such changes into effect.

WE WILL NOT change our past practices without first notifying and bargaining with either the National Union or with the Local Union as local agent of the National Union until either an agreement is reached or a valid impasse.

WE WILL NOT change the process for placing APWU-represented employees on restricted sick leave without first notifying and bargaining with either the National Union or with the Local Union as local agent of the National Union until either an agreement is reached or a valid impasse is reached.

WE WILL NOT fail and refuse to provide the Local Union with requested information that is relevant and necessary to its responsibilities as the local agent for the collective-bargaining representative of APWU-represented employees.

WE WILL NOT delay in reasonably and diligently searching for information requested by the Local Union that is relevant and necessary to its responsibilities as the local agent for the collective-bargaining representative of APWU-represented employees.

WE WILL NOT delay in providing the Local Union with requested information in our possession.

WE WILL NOT in any like manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, upon request, bargain in good faith with the Local Union as the National Union's local agent for administering the collective-bargaining agreement at the Niceville, Florida facility.

WE WILL, within 14 days from the date of the Board's Order, return to the practice of placing APWU-represented employees on restricted sick leave that was in effect prior to March 4, 2010, and **WE WILL** notify the Local Union in writing that we have returned to the practice that was in effect prior to the change.

WE WILL, within 14 days from the date of the Board's Order, cancel and remove from our files any record of Robert Beale's Letter of Warning issued to him on or about March 5, 2010, and **WE WILL**, within 3 days thereafter, notify him in writing that the Letter of Warning has been cancelled and removed from his personnel records and that it will not be used against him in any way.

WE WILL, within 14 days from the date of the Board's Order, cancel and remove from our files any record of Robert Beale's Notice of Seven (7) Day Suspension issued to him on or about March 15, 2010, and **WE WILL**, within 3 days thereafter, notify him in writing that the Notice of Seven (7) Day Suspension has been cancelled and removed from his personnel records and that it will not be used against him in any way.

WE WILL furnish in a timely manner, when requested by the Local Union, information relevant and necessary for it to perform its duties as the National Union's local agent for administering the collective-bargaining agreement at the Niceville, Florida facility.

WE WILL, within a timely manner, reasonably and diligently search for information requested by the Local Union that is relevant and necessary for it to perform its duties as the National Union's local agent for administering the collective-bargaining agreement at the Niceville, Florida facility.

WE WILL, within 14 days from the date of the Board's Order, provide the Local Union with copies of the disciplinary records for all discipline issued to bargaining unit and non-unit employees at the Niceville, Florida facility during the period February 15, 2010 to April 29, 2010.

WE WILL, within 14 days from the date of the Board's Order, provide the Local Union with copies of all the bid jobs for all the clerks who were employed at the Niceville, Florida facility on May 25, 2010.

UNITED STATES POSTAL SERVICE

(Employer)

Dated: _____ By _____
(Representative) (Title)

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material.

The National Labor Relations board is an independent Federal Agency created in 1935 to enforce the National Labor Relations Act. We conduct secret-ballot elections to determine whether employees want union representation and we investigate and remedy unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to an agent with the Board's Regional Office set forth below. You may also obtain information from the Board's Web site: www.nlrb.gov.

600 S. Maestri Place, 7th Floor
New Orleans, LA 70130

Telephone: (504) 589-6361
Hours of Operation: 8:00 a.m. to 4:30 p.m.

APPENDIX B

NOTICE TO EMPLOYEES

**Posted by Order of the
National Labor Relations Board
An Agency of the United States Government**

**PURSUANT TO A STIPULATION PROVIDING FOR A BOARD ORDER AND A
CONSENT JUDGMENT OF ANY APPROPRIATE UNITED STATES COURT OF
APPEALS**

FEDERAL LAW GIVES YOU THE RIGHT TO:

- Form, join or assist a union;
- Choose representatives to bargain with us on your behalf;
- Act together with other employees for your benefit and protection;
- Choose not to engage in any of these protected activities.

WE WILL NOT interfere with, restrain or coerce you in regards to the exercise of these rights. More specifically,

WE WILL NOT refuse to bargain in good faith with the American Postal Workers Union, AFL-CIO (APWU) (National Union) as the exclusive collective-bargaining representative of our employees in the following appropriate unit:

All employees in the bargaining unit for which the American Postal Workers Union, AFL-CIO, has been recognized and certified at the national level, excluding managerial and supervisory personnel, professional employees, employees engaged in personnel work in other than a purely non-confidential clerical capacity, security guards as defined in Public Law 91-375, 1201(2), all Postal Inspection Service Employees, employees in the supplemental work force as defined in Article 7, Rural Letter Carriers, Mail handlers, and Letter carriers.

WE WILL NOT refuse to bargain in good faith with the American Postal Workers Union, Playground Area Local 5643 (Local Union) as the National Union's local agent for administering the collective-bargaining agreement at the Employer's Florida facilities located in Destin, Mary Esther, Fort Walton Beach, Shalimar, Eglin, and Niceville.

WE WILL NOT refuse to first meet and bargain in good faith with either the National Union or with the Local Union as local agent of the National Union until reaching an agreement or a good faith impasse about any proposed changes in APWU-represented employees' wages, hours, and working conditions before putting such changes into effect.

WE WILL NOT fail and refuse to provide the Local Union with requested information that is relevant and necessary to its responsibilities as the local agent for the collective-bargaining representative of APWU-represented employees.

WE WILL NOT delay in reasonably and diligently searching for information requested by the Local Union that is relevant and necessary to its responsibilities as the local agent for the collective-bargaining representative of APWU-represented employees.

WE WILL NOT delay in providing the Local Union with requested information in our possession.

WE WILL NOT in any like manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, upon request, bargain in good faith with the Local Union as the National Union's local agent for administering the collective-bargaining agreement at your facility.

WE WILL furnish in a timely manner, when requested by the Local Union, information relevant and necessary for it to perform its duties as the National Union's local agent for administering the collective-bargaining agreement at your facility.

WE WILL, within a timely manner, reasonably and diligently search for information requested by the Local Union that is relevant and necessary for it to perform its duties as the National Union's local agent for administering the collective-bargaining agreement at your facility.

WE WILL, within 14 days from the date of the Board's Order, provide the Local Union with copies of the disciplinary records for all discipline issued to bargaining unit and non-unit employees at the Niceville, Florida facility during the period February 15, 2010 to April 29, 2010.

WE WILL, within 14 days from the date of the Board's Order, provide the Local Union with copies of all the bid jobs for all the clerks who were employed at the Niceville, Florida facility on May 25, 2010.

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(Employer)

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(Representative) (Title)

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