



United States Government  
NATIONAL LABOR RELATIONS BOARD  
OFFICE OF THE GENERAL COUNSEL  
Washington, D.C. 20570  
[www.nlrb.gov](http://www.nlrb.gov)

HAND-DELIVERED

Date: May 16, 2016

To: The National Labor Relations Board

Re: United States Postal Service, 19-CA-092096

Attached please find a Notice of Ratification regarding the above-cited cases and the Affidavit of Service establishing that all parties were served with the Notice and this letter. I request that the Notice of Ratification be placed in the case record.

Regards,

/s/ Richard F. Griffin, Jr.

General Counsel

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2016 MAY 16 PM 3:01  
NLRB  
ORDER SECTION

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

**UNITED STATES POSTAL SERVICE**

**and**

**Case 19-CA-092096**

**AMERICAN POSTAL WORKERS UNION, AFL-CIO,  
PORTLAND OREGON AREA LOCAL 128**

**NOTICE OF RATIFICATION**

The prosecution of this case commenced under the authority of Acting General Counsel Lafe E. Solomon during the period after his nomination on January 5, 2011, while his nomination was pending with the Senate, and before my confirmation on November 4, 2013.

The United States Court of Appeals for District of Columbia Circuit recently held that Acting General Counsel Solomon's authority under the Federal Vacancies Reform Act (FVRA), 5 U.S.C. §§ 3345 et seq., ceased on January 5, 2011, when the President nominated Mr. Solomon for the position of General Counsel. *SW General, Inc. v. NLRB*, \_\_\_ F.3d \_\_\_, 2015 WL 4666487, (D.C. Cir., Aug. 7, 2015). The Court found that complaints issued while Mr. Solomon's nomination was pending were unauthorized and that it was uncertain whether a lawfully-serving General Counsel or Acting General Counsel would have exercised discretion to prosecute the cases. *Id.* at \*10.

I was confirmed as General Counsel on November 4, 2013. After appropriate review and consultation with my staff, I have decided that the issuance of the complaint in this case and its continued prosecution are a proper exercise of the General Counsel's broad and unreviewable discretion under Section 3(d) of the Act.

My action does not reflect an agreement with the appellate court ruling in *SW General*. Rather, my decision is a practical response aimed at facilitating the timely resolution of the charges that I have found to be meritorious while the issues raised by *SW General* are being resolved. Congress provided the option of ratification by expressly exempting "the General Counsel of the National Labor Relations Board" from the FVRA provisions that would otherwise preclude the ratification of certain actions of other persons found to have served in violation of the FVRA. *Id.* at \*9 (citing 5 U.S.C. § 3348(e)(1)).

For the foregoing reasons, I hereby ratify the issuance and continued prosecution of the complaint.

Date: May 16, 2016

/s/ Richard F. Griffin, Jr.  
Richard F. Griffin, Jr.  
General Counsel

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 19**

**UNITED STATES POSTAL SERVICE**

**and**

**Case 19-CA-092096**

**AMERICAN POSTAL WORKERS UNION, AFL-CIO,  
PORTLAND OREGON AREA LOCAL 128**

**AFFIDAVIT OF SERVICE OF: Notice of Ratification of Complaint and Prosecution of  
Complaint and Letter to the Board regarding this Ratification.**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on May 16, 2016 I served the above-entitled document(s) by regular mail, as noted below, upon the following persons, addressed to them at the following addresses:

Shawneen Betha, Postmaster  
United States Postal Service  
715 NW Hoyt St  
Portland, OR 97208-8097

Dallas G. Kingsbury, Esq.  
United States Postal Service  
1720 Market St., Rm. 2400  
St. Louis, MO 63155-9948

Roderick D. Eves, Deputy Managing Counsel  
United States Postal Service (Law Department -  
NLRB Unit)  
Law Department - NLRB  
1720 Market St., Rm. 2400  
St. Louis, MO 63155-9948

Brian Dunsmore, President  
American Postal Workers Union, AFL-  
CIO, Portland Oregon Area Local 128  
2360 SE Morrison St  
Portland, OR 97214-2827

Pamela Angus-Blevins, Paralegal Specialist  
United States Postal Service (Law Department -  
NLRB Unit)  
1720 Market St., Rm. 2400  
St. Louis, MO 63155-9948

\_\_\_\_\_  
May 16, 2016  
Date

\_\_\_\_\_  
Lily Nguyen  
Designated Agent of NLRB  
Name

\_\_\_\_\_  
/s/ Lily Nguyen  
Signature