

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

UNITED STATES POSTAL SERVICE

and

Case 10-CA-200017

**NATIONAL ASSOCIATION OF LETTER
CARRIERS BRANCH 263**

DECISION AND ORDER

Statement of the Case

On January 17, 2018, the United States Postal Service (the Respondent), the National Association of Letter Carriers Branch 263 (the Union), and the General Counsel of the National Labor Relations Board entered into a Formal Settlement Stipulation, subject to Board 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 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.¹

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.²

¹ Chairman Ring is recused and took no part in the consideration of this case.

² We note that the remedy to which the parties have agreed differs in some respects from 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*, 345 NLRB 426 (2005), enfd. 486 F.3d 683 (10th Cir. 2007); *United States Postal Service*, 28-CA-017383 et al., unpublished order issued November 4, 2002, enfd. Case 02-9587 (10th Cir. 2003). These broad orders, as enforced by the United States Courts of Appeals, remain in effect, and the Board's approval of this stipulation does not modify these orders in any respect. We also note that, although there is only one Union involved in the instant case, the parties' stipulation refers to "Unions" in the plural and the parties have agreed to that term. We therefore include it in our Order.

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

Findings of Fact

1. The Respondent's business

The Respondent is and has been, at all times material herein, an independent establishment of the Executive Branch of the Government of the United States providing postal services. It operates various facilities throughout the United States, including its facility located at 3301 Wrightsboro Road, Augusta, Georgia (the Wrightsboro Road facility). The Respondent is now, and has been at all material times, an entity subject to the Board's jurisdiction by virtue of Section 1209 of the Postal Reorganization Act (39 U.S.C. § 101 et seq.).

2. The labor organizations involved

At all material times, National Association of Letter Carriers (NALC) has been a labor organization within the meaning of Section 2(5) of the Act.

At all material times, NALC Branch 263 has been an agent of NALC, acting on behalf of NALC, within the meaning of Section 2(13) of the Act.

At all material times, by virtue of Section 9(a) of the Act, NALC has been, and is now, the exclusive bargaining representative for the purpose of collective bargaining with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment of employees in an appropriate unit as set forth in Article 1 of the current National Agreement between the Respondent and NALC, including employees employed by the Respondent at its Wrightsboro Road facility.

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, the National Labor Relations Board orders that:

The Respondent, United States Postal Service, Augusta, Georgia, its officers, agents, successors, and assigns, shall

Member Emanuel would not approve the parts of the Order that require the Respondent to cease and desist from refusing to bargain with, or to take action with respect to, "any other labor organizations" or "any other such union," because no violations against other unions are alleged as part of this case.

1. Cease and desist from

(a) Refusing to bargain collectively and in good faith with NALC Branch 263 and/or any other labor organization representing bargaining unit employees at the Respondent's Wrightsboro Road facility (collectively referred to as "the Unions"), by failing to furnish, or by unduly delaying furnishing, information that is relevant and necessary to the Unions in the performance of their duties as the exclusive bargaining representative of the Respondent's employees.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

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

(a) Upon request, furnish the Unions with necessary and relevant information in a timely and appropriate manner.

(b) Waive, for 30 days following issuance of the Board's Order, any contractual deadlines for filing and pursuing grievances related to the requested information that NALC Branch 263 missed due to the Respondent's delay in providing the information requested.

(c) For the Respondent's Wrightsboro Road facility, maintain a log in which the Respondent will immediately record each information request that the Unions tendered to the Respondent orally or in writing. These logs shall include the following information: a brief description of the information requested; the name of the individual who is making the request; the union and unit involved; the name of the supervisor, manager, or designated management official (DMO) who received the request; the date the request was made; and the date that the Respondent's manager or supervisor provided the Unions with the requested information, or upon which the Respondent's manager, supervisor, or DMO responded to the Unions with an explanation for any anticipated delay. If the manager, supervisor, or DMO, having reviewed the documents requested, believes that the Respondent will need additional time to furnish the information, the manager or supervisor will inform NALC Branch 263, or any other such union, in writing, requesting additional time and explaining the need for the additional time. Such responses shall be recorded in the information request logs. Union stewards will be granted access to the logs, upon request.

(d) Provide for each manager and supervisor who is designated to receive union requests for information for the Respondent's Wrightsboro Road facility, within thirty (30) days of the entry of the Board's Order and annually thereafter, training that encompasses how to maintain the log and how to tender the relevant information requested by the Unions; each such supervisor and manager will sign an acknowledgment form attesting to the fact that he or she has completed said training. A copy of this acknowledgment form shall be maintained in the supervisor's or manager's

training and history files. Supervisors, managers, or agents who fail unreasonably to supply relevant information to the Unions will have this fact mentioned in the “corrective action” column of the semi-annual audit report described below in paragraph 2(f). Repeated violations could lead to discipline of said supervisor or manager.

(e) Union stewards at the Respondent’s Wrightsboro Road facility must be notified when the manager, supervisor, or agent who is designated to receive requests for information for that facility has changed.

(f) The Respondent’s legal or labor relations department shall conduct semi-annual audits of the logs at the Respondent’s Wrightsboro Road facility to ensure that the information requests of NALC Branch 263, and other such unions, are being handled in a timely and appropriate manner and to ensure the logs are properly maintained. Following the audit, the legal department or labor relations department shall tender, in writing, a written report setting forth for each request that did not receive a complete response within seven days: the identity of the requesting party; a summary of the request; the location for which the request was made; the name of the supervisor or manager responsible for responding to the request; the number of days from request to initial response; the number of days from request to complete and/or final response; and any action taken to address and/or correct unreasonable failures and delays by supervisors and managers. This audit report will be forwarded to the USPS district manager, the USPS district manager of human resources, USPS labor relations, and the USPS Law Department NLRB Unit. To the extent that such audits indicate that requests are not being responded to in a timely and appropriate manner or that the logs recording information requests are not being properly maintained, remedial training shall be provided to all persons in a supervisory or managerial or DMO capacity who were or are involved in the process of providing information to the Unions for the Wrightsboro Road facility. The Respondent will provide documentation of any such training to the NLRB Region 10 Compliance Officer upon request.

(g) Within 14 days of service by the Region:

(i) Post at the Respondent’s Wrightsboro Road facility copies of the attached Notice to Employees attached as Appendix A.³ Copies of the notice, on forms provided by the Regional Director for Region 10, 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;

³ If this Order is enforced by a judgment of a United States Court of Appeals, the words in the notice reading “Posted by Order of the National Labor Relations Board” shall read “Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board.”

(ii) Upon receipt of such notice, the manager at the Respondent's facility will record the date said notice was received and the date on which the notices were posted, and the Respondent will submit this information to the Region's Compliance Officer, along with the signed certification. The Respondent will take reasonable steps to ensure that the notices are not altered, defaced, or covered by any other material;

(iii) Electronically post the Notice to Employees for employees at its Wrightsboro Road facility, if the Respondent customarily uses electronic means such as an electronic bulletin board, e-mail, website, or intranet to communicate with those employees.

(iv) Within ten (10) days after entry of the Board's Order, provide all supervisors and managers, including acting supervisors and managers, at the Respondent's facility with written instructions to comply with the provisions of the Order. The instructions shall underscore that:

- 1) Unprivileged or unwarranted refusals and unreasonable delays in responding to requests for information required under the Act to be provided to labor organizations shall not be tolerated by the Respondent.
- 2) Any unwarranted failure to provide, or unreasonable delay in providing, such information will subject the responsible supervisor(s), DMO(s), and/or manager(s) to discipline by the Respondent as may be appropriate in light of the relevant facts and circumstances, consistent with applicable state and federal laws and regulations.
- 3) Each person receiving the Board Order and instructions described above shall acknowledge in writing that he or she has been furnished with a copy thereof, understands them and will conduct himself or herself consistently therewith, and will not in any way commit, engage in, induce, encourage, permit, or condone any violation of this Order; and the Respondent shall retain and supply copies of those acknowledgments and the written instructions to NLRB Region 10 pursuant to subparagraph (i) below.

(h) In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed its Wrightsboro Road facility, 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, 2017.

(i) 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 the Respondent has taken to comply. The certification shall include a copy of

the documents signed by a responsible official attesting to the dates that the notices were received at the facility, the dates that the notices were posted, and where the notices were posted.

(j) Upon request, provide to the Regional Director of Region 10, copies of the logs described above in Section 2(c); the acknowledgment forms, and discipline described above in Section 2(d); and the semi-annual audits and reports from the Respondent's legal or labor relations department described above in Section 2(f).

Dated, Washington, D.C., May 1, 2018.

Mark Gaston Pearce, Member

Lauren McFerran, Member

William J. Emanuel, 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 refuse to bargain collectively and in good faith by refusing or unduly delaying furnishing information requested by National Association of Letter Carriers Branch 263, and/or any other labor organization representing bargaining unit employees, that is relevant and necessary to the performance of their duties as the exclusive bargaining representatives of the bargaining unit employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by the National Labor Relations Act.

WE WILL, upon request, provide NALC Branch 263, and/or any other labor organization representing bargaining unit employees, with necessary and relevant information in a timely and appropriate manner.

WE WILL waive for 30 days following issuance of the Board's Order any contractual deadlines for filing and pursuing grievances related to the requested information, where NALC Branch 263 missed contractual deadlines due to our delay or refusal in providing requested information.

WE WILL, for our Wrightsboro Road facility, maintain a log in which we will immediately record each information request made orally or in writing by NALC Branch 263, and/or any other labor organization representing bargaining unit employees, at our Wrightsboro Road facility. These logs shall include the following information: a brief description of the information requested; the name of the individual who is making the request; the name of the supervisor or agent who received the request; the date the request was made; and the date our manager, supervisor, or agent provided NALC Branch 263, or other such unions, with the requested information. If our manager, supervisor, or agent, having reviewed the documents requested, believes that we will need additional time,

we will inform NALC Branch 263, or any other such union, in writing of the additional time needed and explaining the need for the additional time.

WE WILL annually thereafter provide training to each manager, supervisor, or agent who is designated to receive or process requests for information for our Wrightsboro Road facility, which encompasses how to maintain the log, and how to tender the relevant information requested by the Unions; each such supervisor and manager will sign an acknowledgment form attesting to the fact that he or she has completed said training. A copy of this acknowledgment form shall be maintained in the supervisor's or manager's training and history files. Union stewards will be granted access to the logs, upon request. Supervisors, managers, or agents who fail to reasonably supply relevant information to the Unions will have this fact mentioned in the "corrective action" column of the semi-annual audit report provided to the district manager and district manager of human resources. Repeated violations could lead to discipline of said supervisor or manager.

WE WILL notify Union stewards at our Wrightsboro Road facility when the manager or supervisor who is designated to receive union requests for information for their particular facility has changed.

WE WILL through our legal department or labor relations department, conduct semi-annual audits of the logs for our Wrightsboro Road facility to ensure that the information requested by NALC Branch 263, or any other such unions, is being handled in a timely and appropriate manner, and to ensure the logs are being properly maintained. Following the audit, our legal department or labor relations department shall tender, in writing, a written report that will be forwarded to the district manager and the district manager of human resources.

UNITED STATES POSTAL SERVICE

The Board's decision can be found at www.nlr.gov/case/10-CA-200017 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

