

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

UNITED STATES POSTAL SERVICE

and

**Cases 12-CA-208547
12-CA-215960
12-CA-222506
12-CA-222515
12-CA-222526
12-CA-222527
12-CA-222573
12-CA-225628
12-CA-225637**

**AMERICAN POSTAL WORKERS UNION,
MIAMI AREA LOCAL 172, AFL-CIO**

DECISION AND ORDER

Statement of the Case

On March 18, 2019, the United States Postal Service (the Respondent); American Postal Workers Union, Miami Area Local 172, AFL-CIO; 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345 NLRB 426 (2005), *enfd.* 486 F.3d 683 (10th Cir. 2007); *United States Postal Service*, 28-CA-017383 et al., unpublished order issued November 4, 2002, *enfd.* Case 02-9587 (10th Cir. 2003).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,

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 provides postal services for the United States of America and operates various facilities throughout the United States in performing that function, including its facilities at 2200 NW 72nd Avenue, Miami, Florida (General Mail Facility) and 11698 NW 25th Street, Miami, Florida (International Service Center), the only facilities involved in this matter. The Board has jurisdiction over the Respondent and this matter by virtue of Section 1209 of the Postal Reorganization Act (PRA), 39 U.S.C. § 101 et seq.

2. The labor organizations involved

American Postal Workers Union, AFL-CIO (APWU) and American Postal Workers Union, Miami Area Local 172, AFL-CIO each are, and at all material times have been, labor organizations within the meaning of Section 2(5) of the National Labor Relations Act (the Act).

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, Miami, Florida, its officers, agents, successors, and assigns, shall

1. Cease and desist from:

(a) Failing or refusing to provide, or unreasonably delaying in providing, American Postal Workers Union, AFL-CIO, or its agents, including Miami Area Local 172, with requested information that is relevant and necessary to its role as the exclusive collective-bargaining representative of the employees in the following unit:

All employees in the bargaining unit for which APWU has been recognized and certified at the national level: maintenance employees, motor vehicle employees, postal clerks, mail equipment shops employees, material distribution centers

remain in effect, and the Board's approval of this stipulation does not modify these orders in any respect.

Member Emanuel would not approve the parts of the Order that require the Respondent to take action with respect to "other unions" with which the Respondent has an exclusive collective-bargaining relationship, because no violations against other unions are alleged as part of this case.

employees, and operating services and facilities services employees; 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 forces as defined in Article 7 of the collective-bargaining agreement between the Respondent and APWU, rural letter carriers, mail handlers, and letter carriers.

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

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, provide American Postal Workers Union, Miami Area Local 172, AFL-CIO (Local 172) with information that it requested on May 24 and September 26, 2017, and January 31, March 26, April 24, May 9 and 14, and July 13, 2018, regarding the Respondent's General Mail Facility and International Service Center operations located in Miami, Florida. Specifically, the Respondent will provide Local 172 with:

The following information that was requested on May 24, 2017:

- (i) A copy of the contract for the HCR 330L2 that transported mail from the Royal Palm P&DC to Snapper Creek and Quail Heights stations on May 22, 2017.
- (ii) A copy of the 5397 for the above HCR for May 22, 2017.
- (iii) A copy of the Daily Times/All Report for all inbound and outbound trips from the Royal Palm P&DC from May 22, 2017 through May 23, 2017, in electronic format.
- (iv) The names of all management personnel who were involved in making the decision to use HCR 330L2 to transport mail from Royal Palm P&DC to the above-mentioned stations.

The following information that was requested on September 26, 2017, related to the HCR contract for HCR 330L2 that went to Quail Heights on September 18, 2017:

- (i) A copy of the HCR contract for HCR 330L2 that went to Quail Heights on September 18, 2017.
- (ii) Statement of Service and Schedule.
- (iii) A copy of the Daily Times/All Report for all inbound and outbound trips [sic] Royal Palm P&DC from 01:00 am to 10:00 am on

September 18, 2017 through September 23, 2017, in electronic format.

- (iv) The person who authorized the load and is the manager aware that mail that belongs to the PVS route is given to the HCR.
- (v) Copies of PS Form 5397, 5443, 7405, 7409, and 7406.
- (vi) Whether the work was a part of this HCR's regular schedule run.

The following information that was requested on January 31, 2018, related to a grievance filed on behalf of unit employee Vanessa McKenzie:

- (i) A copy of any/all notices pertaining to Vanessa McKenzie's removal.
- (ii) A copy of the complete discipline package.
- (iii) A copy of clock rings related to the discipline.
- (iv) A copy of all PS Form 50s related to Vanessa McKenzie.
- (v) A copy of all witness statements.
- (vi) A copy of the Postal Inspector report.
- (vii) A copy of any and all documentation pertaining to the grievance.
- (viii) A copy of all official and unofficial documentation used in making decision to discipline.
- (ix) Discussion dates and official and unofficial supervisor's notes.

The following information that was requested on March 26, 2018, related to a grievance filed on behalf of unit employees:

A copy of clock rings for SDO Tashia Lucas PP23-1 Year 2017 to PP05-2 Year 2018; Dates 10/28/2017 to 03/02/2018.

The following information that was requested on April 24, 2018, related to a grievance filed on behalf of unit employees:

- (i) A copy of employee clock rings for PP05-PP08 dates 02/17 to 04/13.
- (ii) The Call-in Log for PP05-PP08 dates 02/17 to 04/13.
- (iii) A copy of all 3971s for the months of February 2018 to April 2018.
- (iv) A copy of 3972 for the year 2018.

- (v) A copy of Posted Employee Weekly Schedule PP05 to PP08 dates 02/17 to 04/13.

The following information that was requested on May 9, 2018, related to a grievance filed on behalf of unit employee Felix Maider:

- (i) A copy of employee clock rings for PP09 – 04/13 to 04/17.
- (ii) The Call-in Log for PP05 – PP09 dates 04/14 to 04/27.
- (iii) A copy of all 3971s for the months of February 2018 to April 2018.
- (iv) A copy of 3972 year 2018.
- (v) A copy of Posted Employee Weekly Schedule PP09 dates 04/14-04/27.

The following information that was requested on May 14, 2018, related to a grievance filed on behalf of unit employees:

- (i) The Posted Employee Weekly Schedule (for the Automation Clerks).
- (ii) A copy of supervisor's P/L schedule (EAS)/Lead Clerk P/L schedule tour 1.
- (iii) Daily Machine Assignment for Tour 1.
- (iv) A copy of DPS zones worksheet/machine schedule (Tour 1).
- (v) The number of DBCS machine[s] that operated simultaneously during Tour 1.
- (vi) Machine Performance Report (AIPC) (*Daily Machine Report).
- (vii) A copy of employees on the clock report for P/L 152, 154 & 156: Time 2350.

The following information that was requested on May 14, 2018, related to a grievance filed on behalf of unit employee Felix Maider:

- (i) A copy of all Certified Mail and Tracking information related to issuance of Discipline of 7 Day Notice of Suspension.
- (ii) A copy of the Complete Discipline Package.
- (iii) A copy of Medical Documentation.
- (iv) Copies of all 3971s front and back.
- (v) A copy of 3972 front and back.

- (vi) A copy of the Attendance Guideline Policy.
- (vii) A copy of the past live disciplinary actions.
- (viii) A copy of all previous settlements.
- (ix) A copy of Installation Head Designee Letter.
- (x) A copy of Denial of FMLA applicability.
- (xi) A copy of Call Out log for dates cited for employee Felix Maider.
- (xii) A copy of all Official and Unofficial Documentation used in making decision to discipline.
- (xiii) Discussion Dates, Supervisor's Notes Official and Unofficial.

The following information that was requested on July 13, 2018, related to a grievance filed on behalf of unit employees:

- (i) List of all OJI for all tours.
- (ii) Training records of all ISC OJI.
- (iii) List of all employees being placed on 16.7 since 2017 and presently.
- (iv) List of all postal employees who were terminated or resigned from 2017 until present.

The following information that was requested on July 13, 2018, related to a grievance filed on behalf of unit employees:

- (i) Overtime alert report for 1st and 2nd Quarter 2018.
- (ii) Copy of all PS 3189s.
- (iii) Copy of TACS reports as requested in formal of item #4 (copy of any and all PS Form 1723 from December 2017 to present) and time period for all PSE clerks assigned/or who worked in that section prior to the reversion.
- (iv) A list of PSEs along with DA code of any PSEs working or assigned to that section for 6 pay periods.

(b) Upon request from APWU Local 172, or other unions with which we have an exclusive collective-bargaining relationship, provide the requesting union with necessary and relevant information that it has requested, in a timely and appropriate manner.

(c) Within 14 days of service by the Region, post in its General Mail Facility and International Service Center located in Miami, Florida, copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by Region 12, after being signed and dated 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. The Respondent will take reasonable steps to ensure that the notices are not altered, defaced, or covered by any other material.

(d) In addition to the physical posting of paper notices, the attached notice marked "Appendix," after being signed and dated by the Respondent's authorized representative, shall be distributed electronically, such as by email, posting on an intranet or internet site, and/or other electronic means, if the Respondent customarily communicates by such means with its employees employed at its General Mail Facility and International Service Center located in Miami, Florida.

(e) Within 14 days of service from the Region, send a copy of any Board Order and Notice to Employees to all of the Respondent's supervisors and managers at its General Mail Facility and International Service Center located in Miami, Florida.

(f) Waive, for 30 days following the issuance of the Board's Order, any contractual deadlines for filing and pursuing grievances related to the requested information that Local 172 missed due to the Respondent's delay in providing and failure and refusal to provide the information requested as described in paragraph 2(a) above.

(g) The Respondent shall notify union stewards of Local 172 and of other unions with which the Respondent has an exclusive collective-bargaining relationship at its General Mail Facility and International Service Center located in Miami, Florida, when the manager or supervisor who is designated to receive requests for information at the facility or facilities for which the steward is responsible has changed, and provide the name of the newly designated manager or supervisor.

(h) The Respondent will maintain a log in which it will immediately record for its General Mail Facility and International Service Center located in Miami, Florida, each information request made to the Respondent orally or in writing by Local 172 and other unions with which the Respondent has an exclusive collective-bargaining relationship. The log shall include a brief description of the information requested; the name of the individual who made the request; the name of the requesting union and the unit involved; the name of the supervisor who received the request; the date the request was made; and the date that the Respondent's manager or supervisor provided the requested information to the requesting union. Union stewards will be granted access to the logs upon request and if a manager or supervisor, having reviewed the documents requested, believes that the Respondent will need additional time to furnish information, the manager or supervisor will inform Local 172, or any other union, in writing, requesting such additional time and explaining the need for additional time.

(i) Provide each manager and supervisor at the Respondent's General Mail Facility and International Service Center located in Miami, Florida, annual training that encompasses how to maintain the log and how to tender the relevant requested information to the requesting unions. The Respondent will require that each such manager and supervisor complete an acknowledgement form attesting to the fact that he or she has completed the annual training, and maintain a copy of the acknowledgement form in the supervisor's or manager's training and history file.

(j) The Respondent's legal or labor relations department will conduct annual audits of the logs for the Respondent's General Mail Facility and International Service Center located in Miami, Florida, to ensure that union information requests are being handled in a timely and appropriate manner, and to ensure that the logs are being properly maintained. The Respondent's legal or labor relations department will prepare and tender a written report concerning the annual audit to the district manager and district manager of human resources of the Respondent's South Florida District. The Respondent shall include in that report in a "corrective active" column of the annual audit report all instances in which a supervisor or manager fails to furnish requested relevant information or fails to reasonably timely furnish information to the requesting union, and subject supervisors and managers to possible discipline for repeated failures to furnish requested relevant information or fail[ure]s to reasonably timely furnish information to the requesting union.

(k) 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.

Dated, Washington, D.C., November 13, 2019.

Lauren McFerran, Member

Marvin E. Kaplan, Member

William J. Emanuel, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

APPENDIX

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 a representative 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 fail or refuse to provide, or unreasonably delay in providing, American Postal Workers Union, AFL-CIO, Miami Area Local 172 (APWU Local 172) with requested information that is relevant and necessary to the role of American Postal Workers Union, AFL-CIO as the exclusive collective-bargaining representative of the bargaining unit of maintenance employees, motor vehicle employees, postal clerks, mail equipment shops employees, material distribution centers employees, and operating services and facilities services employees, which is fully defined in our most recent collective-bargaining agreement with American Postal Workers Union, AFL-CIO.

WE WILL NOT in any like or related manner interfere with your above rights under Section 7 of the National Labor Relations Act.

WE WILL promptly provide APWU Local 172 with the information it requested on May 24, 2017, September 26, 2017, January 31, 2018, March 26, 2018, April 24, 2018, May 9, 2018, May 14, 2018, and July 13, 2018.

WE WILL, upon request from APWU Local 172, or other unions with which we have an exclusive collective-bargaining relationship, provide the requesting union with necessary and relevant information that it has requested in a timely and appropriate manner.

WE WILL waive, for 30 days following the issuance of the Board's Order, any contractual deadlines for filing and pursuit of grievances related to the requested information that APWU Local 172 missed due to our delay in providing and failure to provide the requested information.

WE WILL notify the union stewards of APWU Local 172, and other unions with which we have an exclusive collective-bargaining relationship, at our General Mail Facility and International Service Center located in Miami, Florida, when the manager or supervisor who is designated to receive requests for information at the facility or facilities for which

the steward is responsible, has changed, and **WE WILL** provide the union stewards with the name of the newly designated manager or supervisor.

WE WILL maintain at our General Mail Facility and International Service Center located in Miami, Florida, a log in which we will immediately record each oral and written information request made by APWU Local 172 and by other unions with which we have an exclusive collective-bargaining relationship. **WE WILL** provide these unions with reasonable access to the logs that pertain to their requests.

WE WILL provide annual training to each manager and supervisor who is designated to receive union requests for information for our General Mail Facility and International Service Center located in Miami, Florida. The training will encompass how to maintain the log of information requests and how to tender the relevant requested information to the requesting unions.

WE WILL require our legal or labor relations department to conduct annual audits of the logs for our General Mail Facility and International Service Center located in Miami, Florida, to ensure that union information requests are being handled in a timely and appropriate manner, and to ensure that the logs are being properly maintained.

UNITED STATES POSTAL SERVICE

The Board's decision can be found at www.nlr.gov/case/12-CA-208547 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.

