

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

UNITED STATES POSTAL SERVICE

and

**Cases 12-CA-208375
12-CA-211538
12-CA-217234
12-CA-217308
12-CA-217317
12-CA-217320
12-CA-217331
12-CA-217348
12-CA-227948**

**AMERICAN POSTAL WORKERS UNION,
AFL-CIO, PALM BEACH AREA LOCAL 749**

and

Case 12-CA-213247

**NATIONAL ASSOCIATION OF LETTER
CARRIERS, AFL-CIO, BRANCH 1690**

DECISION AND ORDER

Statement of the Cases

On February 21, 2019, the United States Postal Service (the Respondent); American Postal Workers Union, AFL-CIO, Palm Beach Area Local 749 (Local 749); National Association of Letter Carriers, AFL-CIO, Branch 1690 (Branch 1690); 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

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

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

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 engaged in the business of providing postal services for the United States of America, and operates various facilities throughout the United States in performing that function, including its facilities at 3200 Summit Boulevard, West Palm Beach, Florida (its West Palm Beach Processing and Distribution facility); 14280 S. Military Trail, Delray Beach, Florida (its Delray Beach facility); 3330 Fairchild Gardens Avenue, Palm Beach Gardens, Florida (its Palm Beach Gardens facility); and 3900 N. Haverhill Road, West Palm Beach, Florida (its Haverhill Station facility), the only facilities involved in this matter. The Board has jurisdiction over the Respondent and this case 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 Local 749 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).

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.

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.

National Association of Letter Carriers, AFL-CIO (NALC) and Branch 1690 each are, and at all material times have been, labor organizations within the meaning of Section 2(5) of 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, 3200 Summit Boulevard, West Palm Beach, Florida; 14280 S. Military Trail, Delray Beach, Florida; 3330 Fairchild Gardens Avenue, Palm Beach Gardens, Florida; and 3900 N. Haverhill Road, West Palm Beach, 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 Palm Beach Area Local 749, AFL-CIO, 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 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 Respondent and APWU, rural letter carriers, mail handlers, and letter carriers.

(b) Failing or refusing to provide National Association of Letter Carriers, AFL-CIO or its agents, including National Association of Letter Carriers, Branch 1690, AFL-CIO, 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 NALC has been recognized and certified at the national level – City Letter Carriers, employed by the United States Postal Service, excluding managerial and supervisory personnel, professional employees,

employees engaged in personnel work in other than a purely non-confidential capacity, security guards as defined in Public Law 91 – 775, 1201(2), Postal Inspection Service employees, employees in the supplemental work forces as defined in Article 7 of the collective-bargaining agreement between Respondent and NALC, rural letter carriers, mail handlers, maintenance employees, Special Delivery Messengers, Motor Vehicle Employees and Postal Clerks.

(c) 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, the Respondent will provide American Postal Workers Union, Palm Beach Area Local 749, AFL-CIO (Local 749) with information that it requested on January 9, March 7, August 8, and August 26, 2018, regarding the Respondent's Palm Beach, Florida operations. Specifically, the Respondent will provide Local 749 with:

The following information that was requested on January 9, 2018:

Copy of the contract (for electrical subcontracting work on a self-service kiosk at the Respondent's Main Processing and Distribution Center in West Palm Beach, Florida).

The following information that was requested on March 7, 2018:

Copy of the contract (for A/C subcontracting work at the Respondent's Palm Beach Gardens facility in West Palm Beach, Florida).

The following information that was requested on August 8, 2018:

1. Copy of the contract (for painting subcontracting work on a fuel tank at the Respondent's Main Processing and Distribution Center in West Palm Beach, Florida); and
2. Total cost (labor/materials) (for painting subcontracting work on a fuel tank at the Respondent's Main Processing and Distribution Center in West Palm Beach, Florida).

The following information that was requested on August 26, 2018:

Fuel tank transfer of ownership information (pertaining to the fuel tank painting subcontracting work at the Respondent's Main Processing and Distribution Center in West Palm Beach, Florida).

(b) Within 14 days from the date of the Board's Order, the Respondent will provide National Association of Letter Carriers Branch 1690, AFL-CIO (Branch 1690) with information that it requested on December 14, 2017, regarding employee Roodly Maxilus and the Respondent's operations in West Palm Beach, Florida. Specifically, the Respondent will provide Branch 1690 with:

The following information that was requested on December 14, 2017:

1. The 3971 request for AWOL.
2. The City Carrier Assistant schedules for December 2 through 8, 2017.
3. Clock rings for Roodly Maxilus for Sunday, December 10, 2017.
4. The City Carrier Assistant schedules for December 9 through 15, 2017.

(c) Within 14 days of service by the Region, post in all of the Respondent's facilities located in West Palm Beach, Florida; Palm Beach Gardens, Florida; and Delray Beach, Florida, including but not limited to the Respondent's facilities located in zip codes 33401 through 33422, 33444 through 33448, and 33481 through 33484, 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) Within 14 days of service by the Region of the attached notice marked "Appendix," the notice shall be signed and dated by the Respondent's authorized representative, and the Respondent shall distribute the notice 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 facilities located at 3200 Summit Boulevard, West Palm Beach, Florida; 14280 S. Military Trail, Delray Beach, Florida; 3330 Fairchild Gardens Avenue, Palm Beach Gardens, Florida; and 3900 N. Haverhill Road, West Palm Beach, Florida.

(e) Within 14 days of service by the Region, the Respondent shall send a copy of the Board Order and Notice to Employees to all of its supervisors and managers at the Respondent's facilities located in West Palm Beach, Florida; Palm Beach Gardens, Florida; and Delray Beach, Florida.

(f) The Respondent shall 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 Local 749 and Branch 1690 missed due to the Respondent's delay in providing and failure and refusal to provide the information requested as described in paragraphs 7(a)(iv); 7(b)(i) through 7(b)(iv); 7(c)(i); 7(c)(ii); 7(d)(i) through 7(d)(x); 7(e)(i) through 7(e)(x); 7(f)(i) through 7(f)(x); 7(g)(i) through

7(g)(x); 7(h)(i) through 7(h)(x); 7(i)(i) through 7(i)(x); 7(j)(i); 7(j)(ii); 7(k); and 8(a)(i) through 8(a)(iv) of the Fourth Consolidated Complaint.

(g) The Respondent shall notify union stewards of Local 749, Branch 1690, and other unions with which the Respondent has an exclusive collective-bargaining relationship, at each of the Respondent's facilities identified in paragraph 2(d) of this Order above 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 union stewards with the name of the newly designated manager or supervisor.

(h) The Respondent will maintain at each of its facilities identified in paragraph 2(d) of this Order above a log in which it will immediately record each information request tendered to the Respondent orally or in writing by Local 749 and Branch 1690. 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; 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 749 or Branch 1690, as applicable, of the need for additional time and explain the need for additional time.

(i) The Respondent will provide each manager and supervisor at the Respondent's facilities identified in paragraph 2(d) of this Order above annual training that encompasses how to maintain the above-described logs 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 at each of the Respondent's facilities identified in paragraph 2(d) of this Order above 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 a "corrective action" 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 shall subject supervisors and managers to possible discipline for repeated failures to furnish requested relevant information or to reasonably timely furnish information to the requesting union.

(k) Within 21 days after service by the Region, file with the Regional Director for Region 12 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 15, 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 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 fail or refuse to provide, or unreasonably delay in providing, American Postal Workers Union, AFL-CIO, Palm Beach Area Local 749 (APWU Local 749) 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 fail or refuse to provide National Association of Letter Carriers, AFL-CIO, Branch 1690 (NALC Branch 1690) with requested information that is relevant and necessary to the role of National Association of Letter Carriers, AFL-CIO as the exclusive collective-bargaining representative of the bargaining unit of City Letter Carriers which is fully defined in our collective-bargaining agreement with National Association of Letter Carriers, AFL-CIO.

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

WE WILL, upon request from APWU Local 749, NALC Branch 1690, 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 promptly provide APWU Local 749 with the information it requested on January 9, March 7, August 8, and August 26, 2018.

WE WILL promptly provide NALC Branch 1690 with the information it requested on December 14, 2017.

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 749 or NALC Branch 1690 missed due to our delay in providing the requested information.

WE WILL notify the union stewards of APWU Local 749 and NALC Branch 1690 at West Palm Beach Processing & Distribution Center, the Delray Beach facility, the Palm Beach Gardens facility, and the Haverhill Station facility, 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 the West Palm Beach Processing & Distribution Center, the Delray Beach facility, the Palm Beach Gardens facility, and the Haverhill Station facility a log in which we will immediately record each oral and written information request made by APWU Local 749 and NALC Branch 1690. **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 at the West Palm Beach Processing & Distribution Center, the Delray Beach facility, the Palm Beach Gardens facility, and the Haverhill Station facility. 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 at West Palm Beach Processing & Distribution Center, the Delray Beach facility, the Palm Beach Gardens facility, and the Haverhill Station facility 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-208375 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.

